

1 Tuesday, June 27, 2023; Salt Lake City, Utah

2 1:22 p.m.

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4 (The jury was not present in the courtroom.)

5 THE COURT: Okay, Mr. Hunt.

6 MR. HUNT: Your Honor, thanks for the time. We do
7 not need further time with Mr. Neumeister. I appreciate the
8 time.

9 THE COURT: Okay. Well, I just have to say -- and
10 this is for everyone's benefit -- in reflecting over the
11 lunch hour about Mr. Neumeister's testimony, I mean,
12 95 percent of what he said was just talking about documents
13 that have been stipulated into evidence. I don't even know
14 that we needed a witness to go through those documents.

15 And frankly, I should ask you where we are in
16 terms of getting through the case because, as I said, I
17 think that the relevant -- I think that his entire testimony
18 bordered on not relevant or not that helpful beyond the
19 documents that were in evidence. And so, I mean, all he did
20 was supervise people who categorized documents. And so I
21 think that's a good example.

22 Then I look and see that we also have somebody
23 from OnPay. That seems to me to be completely duplicative
24 of whatever Mr. Neumeister did.

25 MS. MUYSKENS: We do not, Your Honor. That was

1 the stipulation was entered. So we're not intending to call
2 OnPay.

3 And some of these individuals -- everyone listed
4 here is not necessarily going to be called. For example, we
5 had Jordan Harman on the list, but he was the individual who
6 couldn't travel.

7 THE COURT: Okay. So let's just see where we are.
8 The Mark McGee, OnPay, what --

9 MS. MUYSKENS: Mark McGee of OnPay, that was the
10 stipulation counsel did agreed to.

11 THE COURT: Okay.

12 MS. MUYSKENS: So in terms of timing, Your Honor,
13 the government is still on track. We believe we'll be able
14 to finish our case tomorrow.

15 THE COURT: Okay.

16 MS. MUYSKENS: So we're on track.

17 THE COURT: Okay. Well, then that makes me feel a
18 bit better.

19 But like I said, I think at the end of the day,
20 we're spending a lot of time on how the money was spent, and
21 there's no dispute about that, really. I mean, we've got
22 the 1099s, we've got the payroll records. And so I'm not
23 sure what that's adding to the equation, apart from what can
24 be argued by counsel in closing argument.

25 So I'm glad to know that you don't think you need

1 him, Mr. Hunt. And did you excuse him already? Did he go
2 to catch his plane?

3 MR. HUNT: I hope so.

4 MS. MUYSKENS: I can let him know. Thank you.

5 THE COURT: Can someone go tell him he's been
6 excused? Okay. And he can go catch his plane.

7 And are we ready for the jury?

8 MS. MUYSKENS: Yes, Your Honor.

9 THE COURT: Okay.

10 (The jury entered the courtroom.)

11 THE COURT: Welcome back, Members of the Jury.
12 And just to fill you in, we had some further discussion with
13 counsel. And based on agreement of counsel, Mr. Neumeister
14 has been excused as a witness. So he's gone back to
15 California.

16 And the government is ready to call its next
17 witness.

18 MS. THOMAS: The United States calls Brian
19 Pinheiro.

20 COURTROOM DEPUTY: Please raise your right hand.

21 You do solemnly swear that the testimony you shall
22 give in the case now before the Court to be the truth, the
23 whole truth, and nothing but the truth so help you God?

24 THE WITNESS: Yes.

25 COURTROOM DEPUTY: Please have a seat.

1 BRIAN PINHEIRO,
2 was called as a witness, and having been first duly
3 sworn to tell the truth, the whole truth, and nothing
4 but the truth, testified as follows:

5 COURTROOM DEPUTY: Please state your name and
6 spell it for the record.

7 THE WITNESS: Brian Pinheiro, B-R-I-A-N,
8 P-I-N-H-E-I-R-O.

9
10 DIRECT EXAMINATION

11 BY MS. THOMAS:

12 Q. Where are you currently employed?

13 A. CFGI.

14 Q. What is your position there?

15 A. I am a partner there.

16 Q. And where were you employed prior to CFGI [sic]?

17 A. Northeast Bank.

18 Q. How long were you employed at Northeast Bank?

19 A. Approximately seven years.

20 Q. In April of 2020, what was your position at Northeast
21 Bank?

22 A. I was the chief risk officer.

23 Q. And in April of 2020, was Northeast Bank a federally
24 insured financial institution?

25 A. Yes.

1 Q. Where is Northeast Bank located?

2 A. They have corporate headquarters in Boston; Lewiston,
3 Maine; and Portland, Maine.

4 Q. Is it considered a small financial institution?

5 A. Yes.

6 Q. As part of your duties with Northeast Bank in April of
7 2020, did you oversee or have involvement with the PPP loan
8 program?

9 A. Yes.

10 Q. What is Lendio?

11 A. Lendio is a third-party fintech that Northeast Bank
12 used to help source PPP loans.

13 Q. So correct me if I'm wrong, but if you had someone who
14 wanted to apply for a PPP loan, rather than contacting
15 Northeast Bank directly, they would use Lendio?

16 A. Correct.

17 Q. And then Lendio would pass along the applications to
18 Northeast Bank; is that correct?

19 A. Yes. Lendio had a system to source the deals and
20 gather all the documentation for the bank's review of PPP
21 loans.

22 Q. Did Northeast Bank receive a PPP loan application
23 through Lendio from Allison Baver Entertainment in April of
24 2020?

25 A. Yes.

1 Q. Did Northeast Bank have any communications with
2 Allison Baver about the PPP loan application?

3 A. I don't believe so.

4 Q. Did Northeast Bank receive multiple PPP loan
5 applications from Lendio for Allison Baver Entertainment?

6 A. I believe so.

7 Q. Is that because when Allison Baver Entertainment would
8 make an update to the application, a new DocuSign would be
9 created and it would generate a new application to the bank?

10 A. Correct. It would generate an updated application.

11 Q. But from Northeast Bank's perspective, it's basically
12 just one application?

13 A. Yes.

14 Q. They all have the same application ID on them; is that
15 correct?

16 A. I'd have to look at the documents.

17 Q. Okay. Well, we will look at the documents.

18 If I can have you just take a look quickly at
19 Exhibits 13(a) through 13(l).

20 THE COURT: Have these been received?

21 MS. THOMAS: They have not.

22 THE WITNESS: What was it, 13...?

23 BY MS. THOMAS:

24 Q. 13(a) through 13(l).

25 A. Okay.

1 Q. Are those official Northeast Bank records?

2 A. Yes.

3 Q. And are they true and accurate records?

4 A. Yes, I believe so.

5 MS. THOMAS: I move for the admission of
6 Government Exhibits 13(a) through 13(l).

7 THE COURT: Any objection?

8 MS. ANGELOS: No objection.

9 THE COURT: They are received.

10 (Government Exhibits 13(a) through 13(l) were received
11 into the record.)

12 BY MS. THOMAS:

13 Q. All right. We're going to do this a little bit
14 backwards because of the dates. Let's start with
15 Exhibit 13(l). And if we can look at -- I'm sorry, the page
16 with the date and signature, please.

17 Was this submitted on April 13th of 2020 and
18 signed by Allison Baver?

19 A. Based on the time stamp, yes.

20 Q. And then going back to the first page, please.

21 What was the number of employees listed on this
22 application?

23 A. One hundred.

24 Q. And then let's move to 13(k), second page on this one.

25 And was this also submitted on April 13th and

1 signed by Allison Baver?

2 A. Yes, based on the time stamp.

3 Q. And I am not going to force everyone to go through all
4 of these, but there is a series of applications,
5 Exhibits 13(a) through 13(l); is that correct?

6 A. Correct.

7 Q. And let's go to 13(a). If we can look at the date,
8 please.

9 When was this submitted?

10 A. April 26th, 2020.

11 Q. And is this considered the actual application, even
12 though there were numerous prior drafts?

13 A. If it was the most recent date, then yes.

14 Q. And on the front page, what is the average monthly
15 payroll listed?

16 A. 4,770,583.

17 Q. And the number of employees?

18 A. 430.

19 Q. Let's take that blowup part down now.

20 I notice on here that there are initials
21 confirming responses, and then a signature on the last page
22 of Allison Baver.

23 Was the signature and the initials confirming
24 responses important to the bank?

25 A. Yes.

1 Q. Why is that?

2 A. It was a requirement under the PPP program to certify
3 certain information that would qualify the individual.

4 MS. ANGELOS: Your Honor, I'm going to object to
5 in line of questioning until foundation is laid with regards
6 to it being her signature.

7 THE COURT: All right.

8 BY MS. THOMAS:

9 Q. Did you understand the DocuSign system that Lendio had
10 in place with Northeast Bank?

11 A. Yes.

12 Q. And can you explain how that worked?

13 A. The system would allow the individual to e-sign their
14 documents. It would provide a time stamp of the time in
15 which they signed off and would also -- you'll see there on
16 the left -- provide an IP address.

17 THE COURT: So there were, as you said, multiple
18 drafts of this. So if someone opened up a screen and
19 started an application and didn't finish it because they
20 wanted to go look up information or come back to it later,
21 was there a mechanism for saving it without signing it, or
22 how did that work?

23 THE WITNESS: I believe so. So the way the system
24 was set up, from my understanding, is if you made any -- so
25 if you went through, updated the information and wanted to

1 proceed with signing, you could sign it. It would have a
2 time stamp. If there were any updates subsequent to that
3 that you made that would change the application, you would
4 have to go back and re-sign it.

5 THE COURT: All right. And so if an individual
6 started an application but didn't think that it was final
7 and wanted to maybe check on some information, was there a
8 mechanism for saving it that didn't require signing it?

9 THE WITNESS: I believe so.

10 THE COURT: Okay.

11 BY MS. THOMAS:

12 Q. So to follow up on that, though, every time the
13 applicant made any change to the application, it would just
14 generate a new application that was sent to Northeast Bank
15 system; is that correct?

16 A. Correct.

17 Q. And if I can have you look at Exhibits 14(a) through
18 14(k).

19 Are you done?

20 A. Yes, sorry.

21 Q. Were those documents submitted in connection with
22 Allison Baver Entertainment's application for a PPP loan?

23 A. I believe so, yes.

24 Q. Were those documents in Northeast Bank's system?

25 A. It would have been within the Lendio system.

1 Q. But Northeast --

2 A. But we had access to them.

3 Q. Northeast Bank had access to those?

4 A. Correct.

5 MS. THOMAS: I move for the admission of 14(a)
6 through 14(k).

7 MS. ANGELOS: Your Honor, we're fine with that, as
8 long as the other admissions are also admitted at this time
9 based on....

10 THE COURT: Okay. And what are those other
11 exhibit numbers?

12 MS. ANGELOS: Trying to figure that out, Your
13 Honor, because the government's is different than ours. And
14 so maybe if she can go through each one, then I can tell you
15 which ones they are.

16 THE COURT: Well, I suppose the alternative is to
17 just admit yours as one exhibit and hers as one exhibit, and
18 then we'll make sure that all of the relevant exhibits are
19 going to the jury.

20 MS. ANGELOS: Perfect, Your Honor.

21 THE COURT: What number is yours?

22 MS. ANGELOS: Your Honor, mine are going to be
23 437-A through -Y.

24 THE COURT: Okay. I will, at this time, admit
25 Exhibits 14(a) through 14(k) and 437-A through 437-Y.

1 And understand, Members of the Jury, one may be a
2 subset of the other.

3 (Government's Exhibits 14(a) through 14(k), and
4 Defendant's Exhibits 437-A through 437-Y were received into
5 the record.)

6 BY MS. THOMAS:

7 Q. Now, these documents in Exhibits 14(a) through 14(k),
8 are those documents that Northeast Bank or Lendio would have
9 requested that the applicant provide?

10 A. Some may have; some may have not been.

11 Q. Let's look at Exhibit 14(c). This document appears to
12 be 7a program calculations with Allison Baver Entertainment.

13 Is there anything on this document that is of
14 significance to you?

15 A. Yes.

16 Q. Can you tell me what that is?

17 A. The piece that would be significant would be any
18 payroll calculations regarding salary, wages, or any other
19 expenses related to payroll.

20 Q. So does this document show to you that for the month
21 ending March 31st of 2020, Allison Baver Entertainment had
22 \$2.9 million in salary?

23 A. Yes.

24 Q. And the same for the month ending April 30th of 2020?

25 A. Yes.

1 Q. And now, if we could take a look at Exhibit 14(e).
2 This is titled (as read), "Allison Bayer Entertainment
3 Seasonal Payroll Audit April 20th, 2022."

4 Does this document have any significance to you?

5 A. Yes.

6 Q. Can you explain what it is?

7 A. It appears to be payroll-related information.

8 Q. And does it appear that the individual had paid payroll
9 as of April 20th of 2020?

10 A. The top left indicates a PE date, which typically would
11 represent a payroll ending date, and a check date.

12 THE COURT: Can you blow up the top part of it?
13 I'm really struggling to read any of it. Thank you.

14 BY MS. THOMAS:

15 Q. So Exhibits 14(a) through 14(k), were they all
16 documents pertaining to Allison Bayer Entertainment?

17 A. I believe so, yes.

18 Q. Would there be any reason in the bank's mind that there
19 would be a dispute over who signed the application for the
20 PPP loan, given that all of these supporting documents were
21 for Allison Bayer Entertainment?

22 A. Not to my knowledge.

23 Q. Can we look at Exhibit 15, please.

24 Can you explain what this document is.

25 THE COURT: Has this been received?

1 MS. THOMAS: It has not.

2 THE COURT: Okay.

3 THE WITNESS: This is the screenshots from an
4 application within the Lendio system. This would be how
5 Northeast Bank would view a particular application.

6 BY MS. THOMAS:

7 Q. So essentially, does this document just show that
8 Northeast Bank received the application from Lendio for
9 Allison Baver Entertainment?

10 A. Yes.

11 Q. And you, yourself, actually viewed this on Northeast
12 Bank's computer system; is that correct?

13 A. It may have been an underwriter that viewed this
14 particular one.

15 Q. But are you familiar with this appearance and
16 everything on it being from a Northeast Bank system?

17 A. Yes.

18 MS. THOMAS: I move for the admission of
19 Government's Exhibit 15.

20 MS. ANGELOS: No objection.

21 THE COURT: It's received.

22 (Government's Exhibit 15 was received into the record.)

23 BY MS. THOMAS:

24 Q. Did Northeast Bank approve Allison Baver
25 Entertainment's \$10 million PPP loan request?

1 A. No.

2 Q. Did Northeast Bank rely on Allison Bayer's statement
3 that she had 430 employees as of April 26th, 2020?

4 A. Based on the application, yes.

5 Q. Did Northeast Bank rely on her statement that she had
6 4.77 million in average monthly payroll when she submitted
7 it on April 26th, 2020?

8 A. Yes.

9 Q. Did Northeast Bank rely on her certifications that she
10 was eligible for a PPP loan?

11 A. Yes.

12 MS. THOMAS: May I have just a minute, Your Honor?

13 THE COURT: Yes.

14 MS. THOMAS: No further questions, Your Honor.

15 THE COURT: You may cross-examine.

16

17 CROSS-EXAMINATION

18 BY MS. ANGELOS:

19 Q. Good afternoon.

20 A. Good afternoon.

21 Q. So I think you've already talked about it, but
22 basically you received submissions from Lendio regarding
23 Allison Bayer Entertainment?

24 A. Correct.

25 Q. And I think we talked about it. There appear to be

1 multiple dates of submission, but you basically treat it as
2 one application?

3 A. Correct.

4 Q. So from your perspective, it is essentially the same
5 application that's being updated?

6 A. Correct.

7 THE COURT: So just as a practical matter,
8 obviously you got one first. Did you start looking at that
9 one before the second one came in, or did they all come in
10 such quick succession that you didn't even get to them at
11 all until the last one, last update had been submitted?

12 THE WITNESS: So any submission would be put in a
13 queue. So whether or not someone had reviewed a prior
14 version or so on, I'm unsure, but....

15 THE COURT: So you don't know if anyone reviewed
16 the first --

17 THE WITNESS: Correct.

18 THE COURT: -- seven of them, for example?

19 THE WITNESS: Correct.

20 THE COURT: Okay.

21 BY MS. ANGELOS:

22 Q. And can I ask with regards to submissions in the month
23 of April 2020, is it fair to say that a lot of individuals
24 that were applying for bank loans may have adjusted their
25 applications after learning about -- more information about

1 how to calculate and those kind of things? Was that
2 something that was happening as people were learning?

3 A. Potentially, yes.

4 Q. After receiving the submission package, you never
5 reached out to Ms. Baver with her about her submissions, did
6 you?

7 A. I did not personally, no.

8 Q. And you didn't send any correspondence from yourself or
9 on behalf of Northeast to Ms. Baver, asking her to contact
10 you about her submission?

11 A. No.

12 Q. And never sent any correspondence regarding whether she
13 had been denied or approved?

14 A. I don't believe so. Whether there was something
15 automatically generated and sent to her, I don't know. But
16 I don't believe so.

17 Q. So you, yourself, never reached out to her to try and
18 find out why she was submitting the way she was submitting
19 and the documents she was submitting?

20 A. Correct.

21 Q. You just made a determination without ever talking to
22 her?

23 A. I may not have made that determination. The bank would
24 have, whether -- yeah.

25 Q. Okay. But you didn't reach out and say, These

1 documents, could you explain these documents to me?

2 A. Not that I'm aware of.

3 Q. Did you understand that somebody from Lendio was
4 working with Ms. Bayer directly?

5 A. I am not aware.

6 Q. Lendio is basically the middleman between the customer
7 and Northeast, right?

8 A. They would have been the one sourcing it and receiving
9 all of the documents.

10 Q. Did you ever call anyone at Lendio to inquire about the
11 circumstances surrounding Ms. Bayer's loan to try and
12 understand her submissions?

13 A. Not that I'm aware of.

14 Q. And did you ever email anyone with Lendio to inquire
15 about the circumstances surrounding Ms. Bayer's loan to try
16 and understand her submissions?

17 A. Not that I'm aware of.

18 Q. Did anyone at Lendio ever reach out to you to discuss
19 the circumstances surrounding Ms. Bayer's submissions?

20 A. Not that I'm aware of.

21 Q. So if Ms. Bayer provided information to Lendio that
22 gave context to her submission to the bank, that would have
23 been important information for you to have?

24 A. Can you repeat that again.

25 Q. Sure. If Ms. Bayer had provided information to Lendio

1 that gave some context to some of Ms. Baver's submissions,
2 that would have been important to have?

3 A. Potentially, based on the facts and circumstances.

4 Q. And it would be on Lendio to provide that information
5 to you, since they're the middle person?

6 A. Potentially.

7 Q. Well, do you have any information to suggest that
8 Ms. Baver knew that her application went to Northeast from
9 Lendio?

10 A. I believe it would have been disclosed as part of the
11 application process.

12 Q. Later, but not at the time, correct?

13 A. As part of the application process, there's certain
14 disclosures required. I'd have to revisit to pinpoint those
15 specific disclosures.

16 Q. Okay. And is it fair to say that if Lendio was
17 supposed to provide you some information regarding
18 Ms. Baver's submission that it wouldn't be Ms. Baver's
19 fault, it would be Lendio's fault for not providing that
20 information to you?

21 A. Without knowing any specifics around the information,
22 difficult to answer yes or no.

23 Q. You, yourself, just don't have any information because
24 you guys never made contact with her?

25 A. I'm not aware of us making contact with her.

1 Q. And I think you indicated -- did you basically
2 indicate -- label Ms. Baver's application as "Dead" when you
3 received it?

4 A. Based on what was shown there, yes, that was the
5 designation.

6 Q. So you didn't pursue it any further from there?

7 A. Not that I'm aware of.

8 Q. And was the reason that you didn't pursue it because
9 her monthly payroll numbers exceeded 8,333 per employee?

10 A. There were various reasons why it would have been
11 labeled "Dead," you know. Disqualifying may have been one
12 of them, as you mentioned there.

13 Q. Okay. But you didn't pursue any attempt to further
14 communicate with Ms. Baver regarding the numbers?

15 A. Not that I'm aware of.

16 Q. And as a result, Ms. Baver's submission never received
17 an SBA number?

18 A. Correct.

19 Q. I think you testified that you were working in the
20 capacity in 2020 of receiving and reviewing PPP loan
21 applications on behalf of Northeast, correct?

22 A. I was -- I oversaw our risk program and built out our
23 underwriting program with the underwriting team.

24 Q. And you're aware that the PPP loan came out around
25 April 2nd?

1 A. I'd have to revisit the exact dates.

2 Q. Does early April sound right?

3 A. It was certainly up and running at that point in time.

4 Q. Okay. The first guidance for lenders was a borrower
5 information sheet put out by the SBA, or a frequently asked
6 questions; do you remember that?

7 A. At the time, I was very familiar with it, but certainly
8 would have to revisit all of the documentation that came out
9 regarding the rules.

10 Q. Do you remember those information sheets and frequently
11 asked questions just being simply guidance?

12 A. Yes.

13 Q. And is it fair to say that you were receiving hundreds
14 of applications per day?

15 A. Northeast Bank was, yes.

16 Q. And talking with multiple borrowers per day?

17 A. Yes.

18 Q. And multiple questions from these borrowers?

19 A. In some instances, yes.

20 Q. Was the information available to borrowers and lenders
21 that first month, did you think it was sometimes confusing?

22 A. I'd certainly have to revisit it to be able to opine on
23 that.

24 Q. Okay. Is it fair to say that lenders were doing the
25 best they could to try and understand the rules at that

1 time?

2 A. Yes.

3 Q. Is it also fair to say that borrowers were doing the
4 best they could trying to understand the rules at that time?

5 A. Yes.

6 Q. Do you remember as the PPP program went on in later
7 months that more guidance began to come out and you began to
8 understand the program more?

9 A. I recall there being continually updated guidance
10 throughout the process.

11 Q. I want to talk a little bit about some of the
12 submissions that Ms. Baver submitted with her loan. And I
13 think the government has already pulled up a table of
14 contents, but I will make sure. If we could please pull up
15 437-A.

16 Do you remember this document?

17 A. Not specifically as it relates to this loan, but it....

18 Q. If I told you that it came through with the
19 application, do you have any knowledge to suggest otherwise?

20 A. No knowledge to suggest otherwise.

21 Q. Okay. And then if we could pull up -- oh, if we could
22 publish that to the jury.

23 THE COURT: Can you maybe blow some of it up? I'm
24 struggling to read the small print.

25 MS. ANGELOS: We will ask Ms. Miller. And then if

1 we could please pull up 437-B.

2 BY MS. ANGELOS:

3 Q. Do you remember her providing a good faith letter in
4 her submission to Lendio?

5 A. Again, similar to the other document, if it was
6 submitted as part of the application, then yes.

7 Q. No reason to suggest otherwise?

8 A. Correct.

9 Q. And if we could pull up 437-K and maybe highlight....

10 Do you remember this being submitted?

11 A. Similar to the others, if it was submitted as part of
12 the package.

13 Q. No reason to suggest it wasn't?

14 A. Correct.

15 Q. Okay. And does this seem to be something from, if you
16 look at the top, A&E Network?

17 A. On the top left, it shows a -- yeah, "A&E Networks."

18 Q. And if we could please look at -- oh, can I publish
19 that to the jury? I keep forgetting, I think.

20 THE COURT: I think they've all been admitted, so
21 we'll just ask Ms. Miller to publish them as you get to
22 them.

23 MS. ANGELOS: Okay. And if we could look at
24 437-O.

25 BY MS. ANGELOS:

1 Q. And again, the same question: Do you have any reason
2 not to believe that this was something that was submitted
3 with the application from Lendio?

4 A. Again, if it was directly from that Lendio system.

5 Q. And then 437-P.

6 437-Q. And this appears to be possibly a script.
7 Is that what it looks like?

8 A. Yeah, I'm not sure. Potentially.

9 Q. And 437-V.

10 MS. MILLER: 437...?

11 MS. ANGELOS: V.

12 BY MS. ANGELOS:

13 Q. Does this appear to say, "Monsters, a film by Jessa
14 Zarubica"?

15 A. Yes.

16 Q. Okay. And then 437-W. And this was a -- if you could
17 maybe scroll a couple of the pages -- possibly a script?

18 A. Correct. I think the first page mentioned, "A comedy
19 written by."

20 Q. If you could pull up 13-1 of the government. Sorry,
21 13(i). I just need to read my writing. Let's try the one
22 before.

23 So I just wanted to point out something, and if
24 you could highlight, Ms. Miller, the number of employees
25 that's listed as 100. And maybe if you could go down, first

1 off, and tell me the date that this was submitted -- or show
2 the date.

3 So does this appear to show the date of 4/13/2020?

4 A. Based on the time stamp, yes.

5 MS. ANGELOS: And this is admitted, so this is
6 published to the jury, correct?

7 Okay. If we could go back to the first page.

8 BY MS. ANGELOS:

9 Q. So I'm looking at 100 employees. Under the rules, was
10 there a maximum of \$100,000 per employee under the SBA
11 guidelines at the time?

12 A. There was a limit in the amount that you could recoup
13 per employee.

14 Q. Okay. And so looking at this, does it look like the
15 number of employees at 100 times 100,000 would have been
16 \$10 million.

17 A. Trying to see how many zeros are there. If that....

18 THE COURT: Maybe we could blow up the relevant
19 part.

20 THE WITNESS: There were separate, you know --

21 MS. ANGELOS: Yes.

22 THE COURT: There we go.

23 THE WITNESS: Maybe if you want to repeat that, I
24 don't know if I can make that --

25 BY MS. ANGELOS:

1 Q. So there's 100,000 max per employee. And if you times
2 that by the number of 100, that gets to 10 million; is that
3 correct?

4 A. One hundred times 100,000 is 10 million, I believe,
5 yes.

6 Q. So this is an early application that Ms. Baver is
7 filling out. Is it fair to say that she may have not
8 understood how to calculate, based on the number going from
9 100 to 430 simply by --

10 MS. THOMAS: Objection. She's asking for her
11 statement --

12 THE COURT: I understand that. Let her ask the
13 question. If he doesn't know the answer, he can tell her
14 that.

15 THE WITNESS: Yeah, without -- I wasn't the one
16 that applied for it, so certainly I can't suggest one way or
17 another what someone else was thinking.

18 BY MS. ANGELOS:

19 Q. I think what you can tell us, though, is that as people
20 were applying, they were learning the rules more and may
21 have adjusted their applications or payrolls as they
22 learned.

23 A. Yeah, there were certainly changes throughout the
24 process that -- based on guidance.

25 Q. Okay. Just give me a minute. No further questions.

1 THE COURT: All right.

2 Any redirect?

3 MS. THOMAS: Just one question.

4

5 REDIRECT EXAMINATION

6 BY MS. THOMAS:

7 Q. Is the formula on the actual PPP loan application how
8 to calculate the number?

9 A. If you want to pull it up, I can certainly....

10 Q. Page 3 of any of the 13-numbered exhibits.

11 A. So there is, yeah, "Average Monthly Payroll." Then
12 there's a -- you can see there times two and a half plus
13 EIDL net advances.

14 Q. And on page 3, does it specifically tell the applicant
15 how to calculate average monthly payroll?

16 A. Correct.

17 Q. Thank you. No further questions.

18 MS. ANGELOS: Can you pull that back up for a sec.

19 MS. MILLER: Which exhibit was that?

20 THE COURT: It was 13(a).

21 THE WITNESS: It could be the second page of any
22 one of them, or the -- yeah.

23 THE COURT: I think it was page 3.

24 MS. ANGELOS: It's page 3. And if you could
25 highlight that again, Ms. Miller. Just "For purposes of...

1 monthly payroll." No, paragraph 3. No, "For purposes" --

2 MS. MILLER: Sorry.

3 MR. HUNT: Yeah, you're there. There we go.

4 MS. ANGELOS: There we go. And are you able to
5 highlight "most"?

6 BY MS. ANGELOS:

7 Q. And just asking the question: It does indicate that
8 most applicants will use the average, correct?

9 A. Repeat that.

10 Q. You can see in the sentence, "For purposes of
11 calculating average monthly payroll" --

12 A. Correct.

13 Q. -- it's "most." So not all, correct?

14 A. I'm not really sure what, I guess a specific question.

15 MS. ANGELOS: No further questions.

16 THE COURT: All right. May this witness be
17 excused?

18 MS. THOMAS: Yes, Your Honor.

19 THE COURT: All right.

20 From the defense's standpoint, may this witness be
21 excused?

22 MS. ANGELOS: Yes, Your Honor.

23 THE COURT: Thank you, sir. You may step down.
24 You may call your next witness.

25 MS. MUYSKENS: Thank you, Your Honor. The United

1 States calls Michael Buccella.

2 COURTROOM DEPUTY: Please raise your right hand.

3 You do solemnly swear that the testimony you shall
4 give in the case now before the Court to be the truth, the
5 whole truth, and nothing but the truth so help you God?

6 THE WITNESS: I do.

7 COURTROOM DEPUTY: Please take a seat.

8

9 MICHAEL BUCCELLA,

10 was called as a witness, and having been first duly
11 sworn to tell the truth, the whole truth, and nothing
12 but the truth, testified as follows:

13 COURTROOM DEPUTY: Please state your name and
14 spell it for the record.

15 THE WITNESS: Michael Buccella, B-U-C-C-E-L-L-A.

16

17 DIRECT EXAMINATION

18 BY MS. MUYSKENS:

19 Q. Mr. Buccella, where do you live?

20 A. Long Island, New York.

21 Q. When you said "Long Island," I heard a little accent.

22 How long have you lived there? How long have you
23 lived in New York?

24 A. All my life, born and raised.

25 Q. Where do you work?

1 A. I work for A&E Television Networks.

2 Q. How long have you worked for A&E?

3 A. Twenty-four years this September.

4 Q. And what are your responsibilities with A&E?

5 A. I started out on the sales team, and I did advertising
6 sales for about 17, 18 years. And then I moved into our
7 programming partnership groups, which does sales, as well,
8 in addition to advertising sales.

9 Q. So you just said promotional partnership?

10 A. Program partnerships.

11 Q. Program partnership.

12 And how does program partnership differ than
13 advertisement sales?

14 A. Program partnerships, we basically partner with
15 producers' brands to distribute -- air their television
16 shows and programs on the A&E Network channels for a fee.

17 Q. For a fee that A&E pays, or for a fee that they pay to
18 A&E?

19 A. A&E receives the money to air the program.

20 Q. Have you ever heard of the term "buy time"?

21 A. Yes, buy-time/time-buy could be used interchangeably.

22 Q. And what does that refer to in your industry?

23 A. In our industry, it refers to when someone has a
24 program that they wish to air on our networks that is not
25 commissioned and developed by the network. It can be done

1 in a time buy, where we offer a fee along with promotional
2 assets and a place to distribute that program on our
3 networks.

4 Q. So in the buy time or time-buy relationship, who is
5 responsible for paying to create the episodes for the show?

6 A. The producers are responsible for creating the
7 episodes. They will own the episodes.

8 Q. And who is responsible for paying A&E to get those
9 episodes on the air?

10 A. The producer is responsible for paying.

11 Q. Did A&E ever enter into a distribution agreement with
12 Allison Baver Entertainment to put any show on the air?

13 A. We did not have a signed contract for distribution, we
14 were in talks for distribution.

15 Q. So you said you were in talks.

16 When you say a "signed contract," what is required
17 at the time of contract signing?

18 A. Typically, we require a 20 percent deposit to hold the
19 time slot and not sell that time slot to anyone else.

20 Q. And what else has to be delivered to A&E in advance of
21 putting the show on the air in addition to the money?

22 A. We need the show delivered two weeks before airing;
23 therefore, we can have the appropriate promotion. But the
24 show must be in house two weeks before airing before we can
25 air it.

1 Q. So you mentioned that you were in talks with Allison
2 Baver Entertainment about a show; is that correct?

3 A. That's correct.

4 Q. Is this a show that would have been under this buy time
5 or time-buy scenario?

6 A. Yes.

7 Q. Now, as part of those discussions, did you and other
8 A&E employees engage in email communications with
9 Allison Baver as part of these talks?

10 A. Yes.

11 Q. And does A&E maintain its email communications that are
12 sent to and sent by its employees who are engaged in
13 business?

14 A. Yes, it does.

15 Q. And are these communications maintained by A&E as part
16 of its regular course of business?

17 A. Yes, they are.

18 Q. I'm going to ask you to take a look in the binder in
19 front of you at Government's 50 through 58.

20 Have you seen these documents before?

21 A. Yes.

22 Q. Are these true and accurate copies of email
23 communications with Allison Baver regarding a show,
24 *America's Angels*, and A&E employees, to include yourself?

25 A. Yes, they are.

1 MS. MUYSKENS: At this time, the government offers
2 into evidence Government's Exhibits 50 through 58.

3 THE COURT: Any objection?

4 MS. ANGELOS: If I may just have a moment, Your
5 Honor.

6 We don't object, Your Honor.

7 THE COURT: They are received.

8 (Government's Exhibits 50 through 58 were received into
9 the record.)

10 BY MS. MUYSKENS:

11 Q. Now, I want to show you Government's Exhibit 50, and it
12 will also come up on the screen, so whatever is easiest for
13 you to read.

14 So Government's Exhibit 50, this is an email sent
15 by Allison Baver to you and others on October 22nd of 2019;
16 is that correct?

17 A. That is correct.

18 Q. Now, at this time, October 22nd of 2019, had there been
19 any talks with A&E and Allison Baver about a show referred
20 to as *America's Angels*?

21 A. Yes, there has.

22 Q. Had there been any signed contract or deal?

23 A. No signed contract, just talks.

24 Q. And reading the email, the question is, "...let me know
25 if there is a time you'd like to formally discuss

1 distribution on Lifetime and have any deal points I can
2 present to my attorney"; is that correct?

3 A. That is correct.

4 Q. So at this time, no distribution deal.

5 Now, you said you're with A&E Networks?

6 A. Correct.

7 Q. We see a reference to Lifetime.

8 A. Correct. A&E Television Networks is A&E, Lifetime,
9 History Channel.

10 Q. Thank you. But for purposes of negotiation --

11 A. And FYI.

12 Q. And FYI. We'll get to FYI in a second.

13 For purposes of negotiation, this is speaking to
14 Lifetime, but you as an A&E employee would be having those
15 discussions with partners?

16 A. Correct.

17 Q. Thank you. If we could pull up Government's
18 Exhibit 51.

19 Government's Exhibit 51, this is an email from
20 Jordan Harman to Allison Baver on December 2nd of 2019. And
21 I just have a question.

22 Who is Jordan Harman in the A&E employee scheme?

23 A. Jordan Harman is my counterpart that oversees the
24 creative for the time-buy shows that we work on.

25 Q. Okay. So you've used the term "creative." Before, you

1 said you were sales?

2 A. Umm-hmm.

3 Q. Is that a yes?

4 A. Yep, that is a "yes."

5 Q. So you're the money. And creative, is that the
6 crayons?

7 A. Exactly. I put together the deal structure. Jordan
8 takes a look at the show that comes in to make sure that the
9 production quality is at a place that we can put it on air
10 and also just gives some friendly advice on how to produce
11 and how to develop programs.

12 Q. So the email here communicates, and it attaches a
13 series of documents which were also included as Government's
14 Exhibit No. 51. It says, "FYI At-A-Glance." There's also
15 "Lifetime At-A-Glance," and Lifetime Digital Q4 with a
16 pricing proposal; is that correct?

17 A. That is correct.

18 Q. So this refers to it as "FYI." Does that mean "For
19 Your Information"?

20 A. It does not, but it -- it's just the name of the
21 network. The "I" was supposed to be a creative inspiration,
22 information, whatever you want to perceive it as.

23 Q. Am I correct in understanding, does this email reflect
24 a pricing proposal for 11 one-hour episodes to be broadcast
25 on the channel FYI on Saturdays at 10:00 a.m., and it would

1 also air as a Digital Original Series on mylifetime.com?

2 A. That is correct.

3 Q. And FYI as a channel, if we're not familiar with it,
4 where does that stack in the -- you said A&E and Lifetime.
5 Where does it fall?

6 A. That's our Tier 2 cable channel. It's not as widely
7 distributed as the A&E, Lifetime, and History networks. So
8 it's typically on a pay tier or a second tier.

9 Q. If we could go to the last page of this exhibit.

10 And on the last page of Government's Exhibit 51,
11 is this the kind of snapshot pricing proposal that Jordan
12 Harman and A&E sent to Allison Baver in December of 2019?

13 A. Yes, this is.

14 Q. So there's a highlighted portion that says \$354,084.
15 What is that?

16 A. That is the net cost due to A&E for distribution
17 promotion purposes.

18 Q. That's how much Allison Baver Entertainment would have
19 to pay?

20 A. Correct.

21 Q. To air on FYI, the Tier 2?

22 A. To air 11 weeks on FYI along with the digital
23 mylifetime distribution.

24 Q. And under "PAYMENTS & SCHEDULES," it reads (as read),
25 "20% nonrefundable at contract signing, the balance of the

1 payment to be paid in equal installments 90, 60, and 30 days
2 prior to premiere."

3 A. That is correct.

4 Q. What does that mean?

5 A. Basically, when we reserve that time slot for our
6 client, we require a 20 percent down payment that we do not
7 distribute -- or resell that time period.

8 The nonrefundable contract is signed just to make
9 sure that the parties that are involved are serious about
10 partnering. And the rest of the payments are basically due
11 before the airing of the program, so the network does
12 receive all of its money prior to airing any content.

13 THE COURT: Can I just ask a question?

14 So the producer spends all the money to make the
15 production, and they pay you to put it on the air.

16 What do they get out of the deal? I'm just really
17 confused why anyone would spend money to make a movie and
18 pay you to air it.

19 THE WITNESS: Well, right now, when a producer
20 does that, they own the rights inside the program to sell
21 sponsorships. In addition, when they own the content, they
22 have the rights to sell that in a global content market,
23 especially now, due to Netflix, Hulu, and all these other
24 side distributions. If the program does well, there's a
25 better deal that could be in hand. That possibly means that

1 the network would purchase that show.

2 But when the producers own it, they own the IP,
3 and they are able to sell that and monetize it however they
4 think they can.

5 THE COURT: And they can sell advertising to air
6 in the middle of the show on the program, for example?

7 THE WITNESS: So there's two types of packages.
8 Some producers don't want to sell any advertising. They
9 want a lesser rate, and they want to give that up because
10 it's very difficult to sell advertising. So we offer the
11 option either to sell advertising, commercial spots, or not.

12 Other than that, the primary form of funding your
13 show is sponsorship sales, a brand to be in the show,
14 actively used in the show. And then a lot of times our
15 production partners use their own digital asset sites to
16 make that deal better.

17 THE COURT: Okay. Sorry for the digression. I
18 was just curious.

19 MS. MUYSKENS: It was actually on my list of
20 questions. I'll mark it off.

21 BY MS. MUYSKENS:

22 Q. The question was: How does anyone make any money on
23 this? But you've answered it.

24 But this proposal, you just mentioned, well, the
25 cheaper is with no ad times that they control; the more

1 expensive is with ad times.

2 A. Correct.

3 Q. What is this proposal, with ad times or no ad times?

4 A. This one, in particular, looks like it has five units
5 included per hour. So it says Friday -- no, it says FYI,
6 Saturdays, 10:00 a.m., 11 weeks, 35,000 viewers in that time
7 period previous, included 35 units per hour. And then you
8 can buy additional time for 286 per unit.

9 Q. All right. So you lost me there. This is just the
10 pricing proposal.

11 Were there ads included or no ads included in
12 this?

13 A. Five ads were included.

14 Q. Five ads?

15 A. Per week.

16 Q. Per week. Okay.

17 So if we could go to Government's Exhibit 52.

18 So this was sent on December 2nd, 2019, and A&E
19 received a response on December 2nd, 2019, from Allison
20 Bayer. It said, Thanks for the proposal, we'll be in touch;
21 is that correct?

22 A. Yes.

23 Q. Was a contract signed after this proposal was sent?

24 A. No contract.

25 Q. Did ABE ever pay a 20 percent nonrefundable under any

1 proposal?

2 A. A&E did not receive any money.

3 Q. Going to Government's Exhibit 53.

4 Now, March 6th of 2020, so now we're into March,
5 several months before. Are there continuing discussions at
6 this point about the possibility of entering into a
7 contract?

8 A. Yes, there are.

9 Q. And we'll see there are a series of questions back and
10 forth. This is Jordan, and I believe he's responding in the
11 capitals to the questions posed by Allison Baver on
12 March 6th; is that correct?

13 A. That's correct.

14 Q. All right. And one of the questions is a mention of a
15 company called "Six West." What's Six West?

16 A. Six West is our internal, in-house production team at
17 A&E Television Networks.

18 Q. Is that a production team that could be used at no cost
19 to Allison Baver Entertainment?

20 A. No, the cost of production. They would pay -- the
21 producer would pay the cost of production to Six West, who
22 would produce the program.

23 Q. And also in the last line (as read), "Do you guys have
24 any studio or cameras that could provide any cost savings to
25 my company?"

1 Is that something that A&E provides to these
2 time-buy deals?

3 A. Not really. We don't have a very big studio that can
4 take on a full program.

5 Q. Going to Government's Exhibit 54.

6 So about an hour and a half later, an email that
7 proposes a screenshot of a budget for what's looking like
8 eight episodes for the format, and Allison Bayer says
9 shooting one episode per day, although some episodes could
10 be two. And this transmitted a budget and talked about
11 Googling for salaries and information.

12 Was it typical for A&E to receive a budget from a
13 producer that was doing a time buy?

14 A. Not typical to receive a budget, but I think just
15 helping out, taking a look at the material.

16 Q. And at the end, it requests a professional eye to
17 confirm her project budget aligns with Six West. Asking
18 about resources to lower the start-up cost risks, and help
19 with financing conversations; is that correct?

20 A. Yes.

21 Q. Government's Exhibit 55.

22 About two weeks later, is there an exchange back
23 and forth with Jordan Harman and Allison Bayer? I'd like to
24 focus on the bottom email first.

25 It states -- in the "Bondit Media," states, "has

1 offered for my company to debt finance the first season of
2 *America's Angels* against a licensing agreement and I was
3 wondering if you can kindly consider licensing the show?"

4 Those seem to be industry terms. Do you
5 understand what that's asking?

6 A. I do.

7 Q. What is it?

8 A. "Licensing the show" is when A&E pays to distribute
9 that program and has the rights to distribute that program
10 on its channels.

11 Q. So this takes it out of the time-buy scenario?

12 A. This does. There's money exchanged from A&E networks
13 to a producer and for a program.

14 Q. And is that something A&E wanted to do with *America's*
15 *Angels*?

16 A. Our team did not have a budget to produce programs or
17 license programs.

18 Q. So was the answer no, we don't do that?

19 A. (No audible response.)

20 Q. Okay. Going to Government's Exhibit 56. I'm asking to
21 go to the last page of that exhibit. Another string of
22 emails, and the jury will have this in the back.

23 May 4th of 2020 at 1:00 p.m., so about six weeks
24 later after A&E says it won't license. "Wanted to follow-up
25 and let you know that Allison Baver Entertainment was able

1 to secure the financing for America's Angels! I know this
2 is happening at a historical time. Please let me know how
3 we can fast track any agreement."

4 Do you recall receiving this?

5 A. Yes.

6 Q. At that point, May 4th of 2020, was there any agreement
7 in place?

8 A. No signed contract.

9 Q. Okay. I want to go to Government's Exhibit 57. If we
10 could go to page 3. Thank you. So this is an email that's
11 sent to A&E on May 7th.

12 And did you understand what this email was asking?
13 It appears to be from an attorney on behalf of Allison Baver
14 Entertainment. Do you understand what this email, now sent
15 on May 7th, is asking?

16 A. I do.

17 Q. What is it?

18 A. They're considering a number of different proposals.
19 One would be a proposal on FYI and Lifetime linear, meaning
20 the TV network versus the digital assets in three levels in
21 prime time; one with all of the commercial inventory to be
22 sold by the producer, one with 50 percent of the commercial
23 inventory sold to the producer, and one with none of the
24 commercial inventory sold to the producer, with the
25 exception of local avails, which it says, which are

1 controlled by the local cable networks. And please include
2 digital and promotional elements, as we did in the past.

3 Q. Now previously, a pricing proposal that was for Q4 of
4 2020 had about 354,000 that would be paid to A&E to be run
5 on the second tier, FYI, at Saturdays at 10:00 a.m., right?

6 A. Correct.

7 Q. Same request but for Lifetime prime time. What does
8 that put you at?

9 A. Lifetime prime time is very expensive. It could be
10 anywhere between 200 to 350 per hour, depending on the day,
11 time, type, and time of year.

12 Q. So that would be per episode?

13 A. Per episode per week.

14 Q. Did A&E offer a pricing proposal for Lifetime prime
15 time?

16 A. We didn't offer a specific proposal, I think we just
17 talked about the cost of entry on that.

18 Q. And that cost would be in the millions of dollars?

19 A. Yeah, over 3 million.

20 Q. Was that ever explored further?

21 A. No, I don't recall.

22 Q. And the final exhibit, Government's Exhibit 58. Go to
23 the bottom, the last page, please.

24 On September 8th of 2020, does Jordan Harman email
25 Allison Baver Entertainment, circling back to see what's new

1 on the *America's Angels* side of things? Is that correct?

2 A. That is correct.

3 Q. And as of September 2020, was there any agreement or
4 contract in place to air *America's Angels*?

5 A. No contract in place.

6 Q. Has A&E, since 2020, ever signed a contract with
7 Allison Baver Entertainment?

8 A. No.

9 Q. Have you ever seen an episode of *America's Angels*
10 presented at A&E?

11 A. I have not seen one.

12 Q. And has Allison Baver Entertainment ever paid that
13 20 percent nonrefundable to secure their time to air?

14 A. No, we did not receive money.

15 Q. Thank you.

16 MS. MUYSKENS: Court's indulgence.

17 No further questions.

18 THE COURT: Ms. Angelos?

19

20 CROSS-EXAMINATION

21 BY MS. ANGELOS:

22 Q. Good afternoon.

23 A. Hello.

24 Q. So giving proposals to people in the entertainment
25 industry who want to work with A&E is sort of part of your

1 usual course of business, or your job?

2 A. Yes.

3 Q. It's something you do on a regular basis?

4 A. Yes.

5 Q. And you've been doing this for about 24 years?

6 A. I've been doing these types of proposals for about six

7 years.

8 Q. And so you've given a lot of proposals to a lot of

9 people in the entertainment industry?

10 A. Yes.

11 Q. It's no big deal to you?

12 A. Correct.

13 Q. You're not an individual in the entertainment industry

14 who is on the other side of the receiving end, are you?

15 A. No.

16 Q. And not the individual that's seeking a collaboration

17 with A&E?

18 A. Correct.

19 Q. And you're not the individual seeking to work with

20 A&E --

21 A. Correct.

22 Q. -- correct?

23 You're a big network with a big viewership base.

24 For those on the receiving end of getting a proposal, is it

25 fair to say that's a pretty big deal?

1 A. Big deal?

2 Q. Big deal.

3 A. Yes.

4 Q. Okay. They get to possibly work with A&E, fair?

5 A. Yes.

6 Q. And they possibly get to distribute their film or show

7 on a big network?

8 A. Correct.

9 Q. And they get to have something on A&E they worked

10 really hard on prior to even coming to pitch the idea at

11 A&E, correct?

12 A. Correct.

13 Q. Because in order to pitch to A&E, you have to have a

14 lot of work on the front end; fair to say?

15 A. Yes.

16 Q. So is it fair to say that somebody new to the industry,

17 I imagine getting a proposal from A&E would be an even

18 bigger deal?

19 A. Yes.

20 Q. Were you aware that Ms. Bayer was new to the

21 entertainment industry?

22 A. No.

23 Q. You are aware that Ms. Bayer received a proposal from

24 A&E in November or December of 2020, correct?

25 A. Yes.

1 Q. And if we could pull up Government's Exhibit 51. And
2 if you could go to the back. Are you able to pull that out,
3 Ms. Miller? And I want to focus a little bit in the top
4 left. If you could highlight "4Q'20, America's Angels."

5 A. Umm-hmm.

6 Q. So it was anticipated in this proposal that the airing
7 would happen sometime in the fourth quarter of 2020?

8 A. Correct.

9 Q. And so in order to do that, does someone need to be in
10 principal filming sometime before that, for example, spring
11 2020?

12 A. Yes. You can get closer, but I don't handle the
13 creative side.

14 Q. And it looks, if I'm correct, that A&E proposes 11
15 one-hour episodes?

16 A. Correct. That was what was requested.

17 Q. And I think we already talked about it, to be broadcast
18 on Saturdays at 10:00 a.m.?

19 A. Correct.

20 Q. And that A&E would promote *America's Angels* by social
21 media and digital?

22 A. That is correct.

23 Q. Is it also correct that they were going to assign an
24 executive producer to help with the series?

25 A. That is correct.

1 Q. And assuming principal production had to happen in
2 spring in order to get this out, there's other work that has
3 to be done on the back end after principal filming, correct?

4 A. Correct.

5 Q. There has to be editing before distribution, and there
6 has to be marketing before distribution?

7 A. Correct.

8 Q. So for a Q4 distribution, filming in spring 2020 would
9 be a good goal?

10 A. I think so.

11 Q. Were you aware that Ms. Bayer met with individuals from
12 A&E in February in New York?

13 A. Yes.

14 Q. Okay. And that was to be an introduction to Six West
15 productions?

16 A. Yes.

17 Q. Okay. And that was in order for Six West to
18 collaborate on *America's Angels* and do an in-house
19 production?

20 A. Yes.

21 Q. So let's talk about what happens after May 4th -- on
22 May 4th. If you could, please, go to, I think it's
23 Government's Exhibit 52. Okay. Just give me a second. If
24 you could do Government's 56.

25 So it looks like Ms. Bayer reaches out to you and

1 Jordan Harman and a whole bunch of others on May 4th?

2 A. Yes.

3 Q. And do you understand from those emails between you and
4 Ms. Bayer and others that she wants to involve and hire a
5 production team immediately?

6 A. Yes.

7 Q. And she wants to have you assist with locking in the
8 crew and the production schedule?

9 A. Yes.

10 Q. And those conversations surround getting Ms. Bayer
11 linked up with the Six West production again?

12 A. Yes.

13 Q. And your understanding is that she, again, wants to
14 work with Six West, A&E's in-house production crew?

15 A. Yes.

16 Q. And do you remember having a Microsoft or Teams meeting
17 with Ms. Bayer shortly thereafter on May 6th?

18 A. I don't remember that one.

19 Q. Let's see if I can -- is there an individual by the
20 name of Henry Foggo?

21 A. Yes.

22 Q. And who is that individual?

23 A. He's a coordinator in our group that sets up meetings.

24 Q. And I think that you indicated that you are -- you have
25 all of these emails as part of your business records; is

1 that correct?

2 A. Correct.

3 Q. Could you pull up, Ms. Miller, 486-E?

4 MS. MILLER: E?

5 MS. ANGELOS: Yes, E.

6 BY MS. ANGELOS:

7 Q. Does this help give you any information with regards to
8 the possibility of a meeting taking place? Oh, that's
9 January. I apologize. I'm getting my dates mixed up.

10 Actually, let's go back to May 4th a little bit.
11 Can you pull up Defense Exhibit 486-J.

12 And this is, if you're looking at it, this is sort
13 of the email with the discussions about her hiring the
14 production team immediately, correct?

15 A. Yes. I'd have to take a closer look at it, yeah.

16 Yes.

17 MS. ANGELOS: Your Honor, defense counsel moves to
18 admit this exhibit at this time.

19 THE COURT: Any objection?

20 MS. MUYSKENS: It's already included in
21 Government's Exhibit 56, so no objections from the
22 plaintiff.

23 THE COURT: Okay.

24 (Defendant's Exhibit 486-J was received into the
25 record.)

1 BY MS. ANGELOS:

2 Q. And then if we can look at 486-K.

3 And this is, if you're looking at it, do you
4 recognize this email with regards to conversations between
5 you and Ms. Baver and others?

6 A. I don't recognize it, but I'll take a quick look at it.

7 Q. Okay.

8 A. Yep.

9 Q. Does it appear that Mr. Harman is now reaching out,
10 sort of talking about the proposal again and getting up to
11 speed with the proposal again?

12 A. Yes.

13 MS. ANGELOS: Move to admit this -- is this part
14 of yours already?

15 THE COURT: Is it --

16 MS. MUYSKENS: No objection.

17 THE COURT: All right. It's received, if it's not
18 already admitted.

19 (Defendant's Exhibit 486-K was received into the
20 record.)

21 MS. ANGELOS: And if we could publish that to the
22 jury.

23 THE COURT: And again, maybe my eyes aren't so
24 good, but I don't think they can read that from their
25 seats --

1 MS. ANGELOS: Okay. How about we highlight the --

2 THE COURT: -- so publishing it doesn't help if
3 it's too small to read.

4 MS. ANGELOS: How about -- thank you -- and if you
5 could pull out the bottom with Mr. Harman.

6 BY MS. ANGELOS:

7 Q. Okay. Now, going back to May 6, I'm going to ask for
8 you to look at 486-L to see if this refreshes your memory at
9 all.

10 Does it appear that you had a meeting with her?

11 A. Yes.

12 Q. Okay. So there's also a discussion at this time -- and
13 we already mentioned it -- between A&E -- revisiting the A&E
14 proposal that has now passed; is that fair to say?

15 A. Yes.

16 Q. And the understanding between the parties is that you
17 need to begin working on a new proposal?

18 A. Yes.

19 Q. And in these discussions between Ms. Baver and A&E, are
20 you aware she's hired an attorney in New York to assist in
21 negotiations with the A&E offer?

22 A. Yes.

23 Q. And do you recognize the individual by the name of
24 Andrew Velcoff?

25 A. I believe that was the name that was on the email.

1 Q. Okay. Do you need to be -- would you like to be
2 refreshed?

3 A. Yeah, just to see if I -- it sounds familiar, but I
4 want to be 100 percent sure.

5 Q. Okay. Let me see if he is -- if we could pull up
6 486-N.

7 A. Yes, that's the name. I just don't remember the first
8 name, which is why I didn't want to....

9 Q. And let's pull up 486-M also, if we could. And this is
10 sort of the discussion about the new proposal?

11 A. Yes.

12 MS. ANGELOS: Move to admit -- unless it's already
13 been admitted.

14 MS. MUYSKENS: I believe it's already admitted,
15 but no objection. We'll work out the numbers later.

16 MS. ANGELOS: And if we could publish that to the
17 jury.

18 BY MS. ANGELOS:

19 Q. So this is sort of talking about what you could do in
20 the future. And if you could highlight, Ms. Miller, where
21 "Primetime" is, right below it, "Q12021."

22 So the new idea was to try and get this proposal
23 and get into distribution in Q1, 2021; is that fair?

24 A. That's fair.

25 Q. And in these discussions, it's -- do you remember?

1 It's ten episodes, it's 60 minutes an episode, correct?

2 A. At the time, it changed to ten. It was 11 before.

3 Q. And are there continued discussions through the month
4 of May regarding *America's Angels'* future proposals
5 surrounding distribution?

6 A. I believe there are.

7 Q. And do you -- are you aware if Ms. Bayer eventually
8 received another proposal?

9 A. I don't remember the exact proposals that went out
10 from....

11 Q. If you could pull up 486-O. And I'll have you look at
12 that.

13 A. Yes.

14 THE COURT: Has this one been received?

15 MS. ANGELOS: It has not, Your Honor.

16 MS. MUYSKENS: No objection.

17 THE COURT: All right. Then let's receive it so
18 we can publish it to the jury.

19 (Defendant's Exhibit 486-O was received into the
20 record.)

21 MS. ANGELOS: Let's publish that to the jury. And
22 if you could sort of highlight that.

23 BY MS. ANGELOS:

24 Q. So this appears to be a proposal that was given to
25 Ms. Bayer on August 13th; is that correct?

1 A. Yes.

2 Q. And is it fair to say that Jordan Harman was sort of
3 working with Ms. Baver on this new proposal deal through the
4 summer?

5 A. She may have been advising him on what they want. It's
6 all about what the client would like to do, not what we're
7 proposing.

8 Q. And I think my question -- that was a bad question.

9 Are you aware if Jordan Harman was out at some
10 point in the summer of 2020 for either a baby or surgery?

11 A. Yes.

12 Q. Okay. So he was out a little bit of time during the
13 summer?

14 A. Correct.

15 Q. Which explains why the proposal may have not been given
16 until August 13th?

17 A. Correct. This is a proposed proposal. The official
18 proposals typically come in the form that you saw
19 previously.

20 (Court reporter interruption.)

21 A. That you saw previously, that Excel sheet.

22 Q. And if we could show 486-P. And I do not believe this
23 one's been admitted, but if we could blow this up.

24 Does this appear to be the actual proposal?

25 A. Yes, that is it.

1 MS. ANGELOS: And may I move to admit this?

2 MS. MUYSKENS: No objection.

3 THE COURT: It's received.

4 (Defendant's Exhibit 486-P was received into the
5 record.)

6 MS. ANGELOS: And publish this to the jury.

7 BY MS. ANGELOS:

8 Q. So this is the actual proposal that she received from
9 Jordan Harman on August 13th, 2020?

10 A. That is correct.

11 Q. As far as proposals, do they have a certain amount of
12 time prior to them expiring, maybe a period of 90 days, 120
13 days?

14 A. We say that the pricing is good for, I believe, four
15 weeks. Pricing is in net, subject to change four weeks
16 following submission based upon market conditions.

17 So yeah, four weeks. But we try to be good
18 partners and help out people, so....

19 Q. So it could go longer?

20 A. Yes.

21 Q. Okay. And are you aware that Ms. Baver and Jordan
22 Harman reached out and touched base in September of 2020?

23 A. I am not aware.

24 Q. Okay. If we could please show 486-Q. And that may be
25 one of yours too. So this is -- this is in as an exhibit.

1 If we could publish this to the jury. And then if we could
2 go down to the second page of this. And if we could
3 highlight, "We received."

4 So they're having a conversation, and it appears
5 that Mr. Harman is checking on Ms. Bayer, and she's
6 explaining what's happening with regards to A&E; is that
7 fair to say?

8 A. Yes. I'd have to read through it, but yes.

9 Q. Okay. So COVID happens in spring 2020, right?

10 A. Yes.

11 Q. And is it fair to say that the entertainment industry
12 may have gotten word of COVID earlier because of having
13 productions in other countries?

14 A. I guess so, yeah.

15 Q. Did A&E get any word of COVID earlier because of the
16 people that you had in other countries?

17 A. I don't know.

18 Q. Okay. COVID threw a wrench in the entertainment
19 industry, didn't it?

20 A. Certainly did.

21 Q. It threw a wrench in A&E's planned distributions during
22 that year?

23 A. It did.

24 Q. Okay. Did it throw a wrench in A&E's programming that
25 year, if you had new programming that was supposed to be

1 completed?

2 A. We had a lot of programs that were already completed
3 and just rolling out.

4 Q. Okay. Were planned distributions put on hold?

5 A. Some, yes.

6 Q. Was any planned programming put on hold?

7 A. I can't speak to that.

8 Q. Okay. Well, is it fair to say that during the time of
9 COVID that actors couldn't film scenes together?

10 A. In some cases, yes. That depends on the length of
11 COVID.

12 Q. And production crews couldn't really be on set
13 together?

14 A. It all depends on the show and the situations there.
15 There was a time where they could and a time where they
16 couldn't.

17 Q. Speaking of a certain time, let's say April to August
18 of 2020.

19 A. I mean, my shows, I didn't -- I don't remember. But
20 yes.

21 Q. In general?

22 A. In general, yep.

23 Q. Okay. And do you remember the entertainment industry
24 sort of starting to open up in September of 2020?

25 A. I do.

1 Q. Okay. Meetings in person with producers couldn't
2 happen during that time?

3 A. Correct.

4 Q. And so meetings in person with directors could not
5 happen at that time either?

6 A. Correct.

7 Q. Did funding dry up for many of those that A&E was
8 working with?

9 A. In what capacity are we working with now?

10 Q. In the time-buy proposals, for example.

11 A. Yes, we did have a pause in the time-buy space.

12 MS. ANGELOS: If I may have a moment?

13 THE COURT: You may.

14 MS. ANGELOS: No further questions.

15 THE COURT: Any redirect?

16

17 REDIRECT EXAMINATION

18 BY MS. MUYSKENS:

19 Q. So just to pull up Government's Exhibit 58, which is I
20 think the last email you saw about what's going on in
21 September. Page 2, I believe.

22 And the response from Ms. Baver indicated -- if
23 you want to pull that section out, thank you, Melissa --
24 that -- still working on getting some investors, right?
25 That's what she was working on?

1 A. Yes, just give me a second to read.

2 Q. Okay. So around this time or shortly before, she was
3 still asking for pricing proposals and got the 400 -- now
4 we're up to 407,000 because we switched time spots; is that
5 right?

6 A. Time slots, yes.

7 Q. Okay. And you were asked a lot of questions about
8 meetings, trying to -- held in May, and the desire to enter
9 into production agreement. And A&E facilitated those
10 discussions. They encouraged meeting with Six West,
11 correct?

12 A. Correct.

13 Q. They had made Six West available, correct?

14 A. Correct.

15 Q. Did Allison Baver Entertainment ever sign a contract
16 with Six West to do production?

17 A. I don't believe they did, but I wouldn't have that
18 information.

19 Q. Do you have any information that she actually paid any
20 money to secure their services or begin production at any
21 point?

22 A. I don't have any of that information.

23 Q. Thank you. No further questions.

24 MS. ANGELOS: May I ask two questions?

25 THE COURT: All right.

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RECROSS-EXAMINATION

BY MS. ANGELOS:

Q. Just a question with regards to securing production with Six West.

If productions were not happening in spring 2020 or summer 2020, would it have been a good business practice to pay that money for a production that was not going to be happening during the summer?

A. I can't answer to the timeline, but I've never been on that side of the business to....

Q. Okay. Fair.

THE COURT: All right. May this witness be excused?

MS. MUYSKENS: Yes, Your Honor.

THE COURT: All right. Thank you very much, sir. You can head back to -- is it Long Island?

THE WITNESS: Yeah, Long Island, New York.

THE COURT: Yeah.

You may call your next witness.

MS. THOMAS: The United States calls Rocco Perate.

COURTROOM DEPUTY: Please raise your right hand.

You do solemnly swear that the testimony you shall give in the case now before the Court to be the truth, the whole truth, and nothing but the truth so help you God?

THE WITNESS: I do.

1 COURTROOM DEPUTY: Please have a seat.

2

3 ROCCO PERORATE,

4 was called as a witness, and having been first duly
5 sworn to tell the truth, the whole truth, and nothing
6 but the truth, testified as follows:

7 COURTROOM DEPUTY: Please state your name and
8 spell it for the record.

9 THE WITNESS: Rocco Perate, R-O-C-C-O, last name
10 P-E-R-A-T-E.

11

12 DIRECT EXAMINATION

13 BY MS. THOMAS:

14 Q. What state do you live in?

15 A. I live in Pennsylvania.

16 Q. And where are you employed?

17 A. Meridian Bank.

18 Q. What is your position at Meridian Bank?

19 A. I'm EVP of SBA lending.

20 Q. Was that your position in April of 2020?

21 A. No. I was SVP then.

22 Q. Senior vice president?

23 A. Senior vice president.

24 Q. How long have you been with Meridian Bank?

25 A. It will be just about five years, four.

1 Q. What did you do prior to working at Meridian Bank?

2 A. I worked at Beneficial Bank in Philadelphia doing the
3 same thing.

4 Q. How many years -- oh, can you speak into the microphone
5 a little more, pull it closer?

6 THE COURT: That microphone actually moves.

7 THE WITNESS: Oh, it moves? Okay. I'm sorry.

8 THE COURT: If you'd just grab the base and slide
9 it.

10 THE WITNESS: I can slide forward.

11 THE COURT: There we go. Thank you.

12 BY MS. THOMAS:

13 Q. How many years have you been involved with lending?

14 A. Twenty-five or so.

15 Q. Do you have experience with SBA loans?

16 A. Correct.

17 Q. How many years of experience with SBA loans?

18 A. Probably most of that time, 25, yeah.

19 Q. Is Meridian Bank a federally insured financial
20 institution?

21 A. Yes.

22 Q. And in April of 2020, I assume it was federally insured
23 at that time too?

24 A. Correct.

25 Q. Where is Meridian Bank located?

1 A. It's headquartered in Malvern, Pennsylvania.

2 Q. And is it considered a small financial institution?

3 A. It is.

4 Q. Were you involved with the Paycheck Protection Program,
5 a loan program, in April of 2020?

6 A. I was.

7 Q. Can you tell the jury a little bit about what it was
8 like when the PPP loan program rolled out.

9 A. It was total chaos and hecticness of lots of people
10 panicking to get money that was running out, and lots of
11 changes to the program that were happening almost on a
12 weekly basis.

13 Q. What was the volume of loan applications that Meridian
14 Bank was receiving for PPP loans?

15 A. I'm not sure I know what the volume was. In the early
16 part of that time, it felt extremely overwhelming,
17 especially for the size of our staff and the bank.

18 Q. How many employees did you have assigned to the PPP
19 loan program?

20 A. There were probably anywhere from five to 11.

21 Q. Were the employees working typical banker hours during
22 that time?

23 A. No, not at all. We had people working three shifts, it
24 was evening shifts, to make sure that we could get
25 information into the SBA. And had to train those folks that

1 didn't know how to do that as well.

2 Q. What responsibility did Meridian Bank have in approving
3 PPP loans?

4 A. Would you repeat that in a different way, maybe?

5 Q. Sure. Let me rephrase the question.

6 When Meridian Bank received a PPP loan
7 application, what did Meridian Bank do?

8 A. We reviewed the information that was provided by the
9 borrower, or potential borrower, or requested certain
10 information, and just facilitated it to -- on to the process
11 of receiving the PPP loan.

12 Q. For a PPP loan, was a payroll document something that
13 was supposed to be submitted with the loan applications?

14 A. It was.

15 Q. And in your 25 years of lending experience, had you
16 ever had payroll documentation submitted as part of a loan
17 application before?

18 A. No, never.

19 Q. What does "self-certification" mean to you?

20 A. It meant that the -- potential borrower was to tell us
21 the truth of what was being provided.

22 Q. Were PPP loans different from traditional SBA loans?

23 A. One hundred percent different.

24 Q. And with traditional SBA loans, was self-certification
25 required, or was it on the bank to do more investigating?

1 A. A hundred times more. A lot more.

2 Q. Why was there so much pressure to get the loans
3 approved quickly?

4 A. There was a lot of uncertainty of how much money would
5 be available and changes in the rules. And there were other
6 banks that were not able to process because they were
7 overwhelmed by applications. It seemed like it was going to
8 run out of money very quickly.

9 Q. So the government allocated a certain amount of money
10 to the program; is that correct?

11 A. That's correct.

12 Q. And then if the funds ran out, then the funds weren't
13 available?

14 A. Correct.

15 Q. Does a \$10 million PPP loan require anything different
16 than, say, a \$100,000 PPP loan?

17 A. No, not at all.

18 Q. How long did it take Meridian Bank to process
19 traditional SBA loans?

20 A. It's usually about 60 to 90 days.

21 Q. How long did Meridian Bank take to process PPP loans?

22 A. Within hours.

23 Q. With PPP loans, the SBA guarantees them, correct?

24 A. Correct.

25 Q. So the bank is not on the hook if the funds are not

1 repaid; is that correct?

2 A. There was a 100 percent guarantee.

3 Q. With traditional SBA loans, the bank does have some
4 liability, though --

5 A. Yes.

6 Q. -- correct?

7 How many supporting documents are usually required
8 for a traditional SBA loan?

9 A. A lot. How many? If you don't include the closing
10 documents, you would probably be in the 30 range. And if
11 you include the closing documents, you'd probably be in the
12 close to 90.

13 Q. So can you just explain the difference in the bank's
14 process when reviewing a PPP loan application versus a
15 traditional SBA loan?

16 A. Sure. When the PPP requests came in, there were really
17 only a few documents to look at. Most of it, we really had
18 never seen before, like payroll. And we just really made
19 sure that the document was there. There wasn't a lot of
20 analysis to be done on those documents because we didn't
21 feel that that was part of the program. And it was
22 self-certified, which was brand-new to us, so we assumed.

23 And then for a regular loan, we're looking at
24 every line by line. We're verifying it and
25 cross-referencing it, among many other documents.

1 Q. So when you say "self-certify," does that mean that the
2 bank is relying on what the applicant states on the
3 application?

4 A. That's correct.

5 Q. For traditional SBA loans, is credit worthiness
6 something that you look at?

7 A. Yes.

8 Q. What about for PPP loans?

9 A. Not at all.

10 Q. Did you provide any training to your employees on PPP
11 loans?

12 A. Very minimal.

13 Q. What did Meridian Bank do for their customers as far as
14 giving them information about PPP loans?

15 A. We tried to do a webinar for anyone that was
16 interested. And we tried to provide updates. Mostly it was
17 updates to the individual employees of the whole entire bank
18 so that they might tell people who were looking.

19 Q. Did the bank provide their customers with an internal
20 payroll calculator?

21 A. We did.

22 Q. So for the PPP application, the main things that
23 Meridian Bank required would be the application, the loan
24 calculator, spreadsheet, and supporting payroll
25 documentation; is that correct?

1 A. Those were the main -- correct, driver's license,
2 something like that.

3 Q. What is the process when a customer was referred to
4 Meridian Bank or wanted to apply for a PPP loan?

5 A. Mostly it was just passed on to folks to start, you
6 know, start the process of, do they have those items that
7 are in the file?

8 Q. And so Meridian Bank would give them a list of items
9 that they needed for the file?

10 A. Correct.

11 Q. Does the bank then input all of the information
12 provided by the applicant into the SBA's system?

13 A. Yes, or most of it. Yeah, I'm not sure what goes in
14 exactly.

15 Q. Okay. What happens once the information is entered
16 into the SBA system?

17 A. You would get an SBA loan number, which was what you
18 could use for funding, the SBA loan number.

19 Q. Did it also mean that the loan was guaranteed?

20 A. Correct.

21 Q. Was there any underwriting or due diligence performed
22 by Meridian Bank on PPP loans?

23 A. No -- no underwriting.

24 Q. Why did Meridian Bank require its PPP loan applications
25 to have a Meridian Bank account?

1 A. I'm not sure exactly why. It just seemed to be ease of
2 funding to do that.

3 Q. Is it so that you could get the loan proceeds to the
4 individual --

5 A. It was faster.

6 Q. -- quicker?

7 A. It was faster.

8 Q. Okay. Was there any guidance from the SBA for new
9 businesses obtaining PPP loans?

10 A. SBA, about every Friday, was dropping new rules on --
11 on -- on how to get it, which was part of the hecticness of
12 it. So there probably were some, you know, rules.

13 As far as new businesses, do you mean as a
14 brand-new business?

15 Q. Yes.

16 A. Yeah, they weren't -- they weren't eligible.

17 Q. How did you become familiar with Allison Baver?

18 A. She was referred to me by a banker that I had known --
19 a former banker, I think, I had known in the marketplace.

20 Q. And what's his name?

21 A. Alex Kruelle, I believe. You might double-check that
22 for me.

23 Q. Could it be Carl Kruelle?

24 A. Carl Kruelle, I'm sorry. Carl Kruelle. Thank you.

25 Q. Carl Kruelle.

1 A. I'm old. What can I tell you?

2 Q. Do you recall him texting you and asking if you were
3 doing PPP loans?

4 A. I don't recall that, but it probably happened.

5 Q. Did he send you an email, introducing Allison Baver to
6 you?

7 A. He did.

8 Q. What did you do when you received the email from Carl
9 Kruelle?

10 A. I just forwarded it on, like I would have any other
11 referral that came in.

12 Q. Who did you forward it on to?

13 A. Probably Nick Patel.

14 Q. And is he someone on the PPP loan team?

15 A. He was.

16 Q. Did you ever communicate with Allison Baver in any way?

17 A. Not to my knowledge.

18 Q. Did you do a review of Allison Baver's loan application
19 or documents?

20 A. Just the lender certification.

21 Q. How would you describe your job as far as how it
22 pertained to PPP loans?

23 A. I was the person who set up the program, because there
24 wasn't anybody else to do that, and then just to facilitate
25 the process.

1 Q. Did you -- well, we can get to this in a minute.

2 MS. THOMAS: Your Honor, I'm going to discuss
3 Exhibits 16 through 28 with this witness and --

4 MR. HUNT: No objection, Your Honor.

5 THE COURT: Okay. That's fine. And at some
6 point, we need to take our afternoon break. We can do that
7 now, or we can let you get through this next group of
8 exhibits.

9 Do we have a preference from the jury?

10 Now. Okay. Let's take it.

11 MS. THOMAS: Thank you.

12 COURTROOM DEPUTY: All rise for the jury.

13 (The jury left the courtroom.)

14 THE COURT: Let's come back at 3:20.

15 (A break was taken from 3:04 p.m. to 3:25 p.m.)

16 THE COURT: Are we ready for the jury?

17 MS. THOMAS: Yes, Your Honor.

18 THE COURT: All right.

19 (The jury was brought into the courtroom.)

20 THE COURT: You may continue with your
21 examination.

22 MS. THOMAS: Thank you, Your Honor.

23 So just prior to the break, I had moved for the
24 admission of Government's Exhibits 16 through 28, and I
25 believe there was no objections to that.

1 THE COURT: All right. Am I correct, there's no
2 objection?

3 MR. HUNT: Correct.

4 THE COURT: All right. They are received.

5 (Government's Exhibits 16 through 28 were received into
6 the record.)

7 MS. THOMAS: Let's pull up Exhibit 16(a), please,
8 and let's go to the signature page.

9 BY MS. THOMAS:

10 Q. Was this a loan application submitted to Meridian Bank
11 on April 24th by Allison Baver?

12 A. Yes.

13 Q. Can we go back to the first page, please.

14 And what is the requested loan amount on here? I
15 believe it's the second box.

16 A. Second block. 11 million -- is that 11 million 923
17 thousand and 958.

18 Q. Okay. And then let's go to Exhibit 16(b).

19 And is this the same -- submitted by Allison Baver
20 on the same day?

21 A. Yes.

22 Q. And the first page, please.

23 Appears to be the same numbers as the prior
24 application, but maybe some different boxes checked as far
25 as purpose of the loan?

1 A. Yes.

2 Q. And then Exhibit 16(c). And what is the date that this
3 was submitted?

4 A. It says 4/25/2020.

5 Q. Are you aware of why there were three different
6 applications submitted to Meridian Bank?

7 A. I'm not aware.

8 Q. Did Meridian Bank consider the last one, the
9 April 25th, the actual application that it reviewed and went
10 off of?

11 A. I'm not sure I could say it with certainty.

12 Q. Okay. Who was it that reviewed Allison Baver
13 Entertainment's loan application at Meridian Bank?

14 A. It would have been primarily Nick Patel, but there may
15 have been one or two other people.

16 Q. And so let's pull up page 1 of Exhibit 16(c).

17 Did Allison Baver initial the questions in
18 paragraphs -- yeah, starting with Question No. 5?

19 A. Yes.

20 Q. And then let's go to the second page briefly.

21 And did she also sign the application and put her
22 initials under "CERTIFICATIONS"?

23 A. Yes.

24 Q. Why were the certifications important?

25 A. It was really the only thing we had to rely on.

1 Q. Can we pull up Exhibit 17, please.

2 Can you tell the jury what this document is?

3 A. Is that a question to me? I apologize.

4 Q. Yeah. Can you tell the jury what this document is?

5 A. That was the lender's application form.

6 Q. And what does that mean? What's the purpose of this?

7 A. We were supposed to submit this application -- or put
8 it in the file as part of the SBA application.

9 Q. Can we go to page 2 of this document.

10 Is this your electronic signature?

11 A. Yes.

12 Q. And I notice that the date says April 6th of 2020?

13 A. It must have been an error. I think it was 26.

14 Q. And so does this document basically tell the SBA that
15 Meridian Bank is signing off on this loan application?

16 A. Yes.

17 Q. Let's look at Exhibit 18. What is this document?

18 A. This was an internal document required by banks to,
19 sort of, know your borrower.

20 Q. And can we go to the second page.

21 And the third page.

22 Is this a promissory note for a \$10 million loan?

23 A. For PPP, yes.

24 Q. And the next page, please. Actually, if we can just
25 skip through the promissory note to the loan agreement,

1 which would be the next document. Oh. Well, okay.

2 Let's just talk about Government Exhibit 19 here.

3 What is this document?

4 A. We attempted to maybe do one extra step and have
5 something that looks similar to our typical SBA approval, so
6 it was a shortened version.

7 Q. Was this an internal Meridian Bank document?

8 A. Yes.

9 Q. And how did you come up with the information provided
10 on this document?

11 A. That would have been provided by the borrower.

12 Q. Let's move to Exhibit 20. And can you explain what
13 this document is?

14 A. I believe this document is the SBA approval e-tran
15 document, but I might be incorrect. No, it is. The SBA
16 application number is the one there, yes.

17 Q. So does this reflect that on April 27th, Meridian Bank
18 inputted the information from ABE's loan into the SBA
19 system, it received an SBA number, and that made the loan
20 guaranteed?

21 A. Correct.

22 Q. Let's look at Exhibit 21(a).

23 Let's go to 21(b). And let's stop here for a
24 minute. I'm going to show you a series of documents.

25 Were these all documents submitted with ABE's loan

1 application?

2 A. I don't think I've ever seen this document, so I'm
3 assuming it has been.

4 Q. Okay. So are you saying you're unaware of whether this
5 was submitted with her application to Meridian Bank?

6 A. I'm unaware of that.

7 Q. Let's go next to 21(c). Does this document look at all
8 familiar to you?

9 A. It does.

10 Q. And what is this document?

11 A. This is the SBA calculator to determine how much money
12 you would be eligible for.

13 Q. Would this be submitted with the loan application?

14 A. Yes.

15 Q. And what does the applicant list as salary, wages,
16 commissions for March 31st of 2019?

17 A. Appears to be nothing there. Zero, I guess.

18 Q. March?

19 A. Oh, March, I'm sorry. You highlighted yellow, so I
20 didn't see that.

21 Two million 951 thousand and 012.

22 Q. And it's the same for April and May of 2019; is that
23 correct?

24 A. That's correct.

25 Q. Let's move to Exhibit 22.

1 Is this -- okay, let's see. Can we pull up the
2 very first page -- or let's look at this email
3 chronologically, if we can. Okay.

4 So this is an email from Allison Baver to Carl
5 Kruelle, which I assume you won't have knowledge of. But
6 let's look at the page preceding that one.

7 Did Carl Kruelle forward you this email and send
8 you an email, indicating that he's writing to you about
9 Allison Baver Entertainment seeking a PPP loan?

10 A. Yes.

11 Q. What did you do when you received this email from Carl
12 Kruelle?

13 A. I forwarded it on to, I guess, Nick, I think at that
14 point.

15 Q. And let's go to the last page of the email, please.
16 The last page. The email that was -- okay. Let's go back,
17 then. I'm looking for the email from Allison Baver that was
18 sent to Carl Kruelle.

19 Did you read this email that Allison Baver sent to
20 Carl Kruelle that was forwarded to you?

21 A. I did not.

22 Q. Why not?

23 A. Really, I was just forwarding, you know, happy to
24 receive a referral and referring it on to the process.

25 Q. Okay. Can we go to page 1 of the exhibit.

1 And did you respond to Carl and tell him the
2 required documents that you needed?

3 A. Yes.

4 Q. Can you just read that for the jury, please, starting
5 with "Carl."

6 A. Thanks for making it bigger.

7 (As read) "Carl - we will need driver's license,
8 entity docs, the attached calculator completed with all
9 support docs, date business was formed, and funding
10 instructions. We generally want a bank account opened at
11 our bank to deposit PPP funds into," and "will that" --
12 "will that he" -- it's supposed to be -- "will that he an
13 issue" should be "will that be an issue?"

14 Q. Thank you.

15 A. I'm known for misspellings.

16 Q. You were working a lot of hours at that time, right?

17 A. Yep.

18 Q. Let's look at Exhibit 23. And can you tell us what
19 this document is.

20 A. That would have been the document that was used to open
21 the account.

22 Q. And I believe that it says "Account Agreement." So
23 it's the -- yeah, so it's Allison Baver opening an account
24 at Meridian Bank?

25 A. Correct.

1 Q. And let's look at Exhibit 24. Can we enhance that a
2 little bit, please.

3 A. Maybe a little bit more even, if that's possible. Got
4 it.

5 Q. Is this an internal Meridian Bank document showing
6 wires from Allison Baver Entertainment's account from
7 May 21st, 2020, through July 27th, 2020?

8 A. Yes.

9 Q. Let's turn to Exhibit 25.

10 Is this another account agreement between
11 Allison Baver and Meridian Bank?

12 A. It appears to be, yes.

13 Q. Let's turn to Exhibit 26.

14 And is this series of documents Meridian Bank
15 statements for Allison Baver Entertainment's checking
16 account, and it appears that it's from April 30th of 2020
17 through May 31st of 2020?

18 A. Yes.

19 Q. Okay.

20 A. Yes.

21 Q. Let's look at Exhibit 27.

22 Is this a check drawn on Meridian Bank from
23 Allison Baver Entertainment?

24 A. Yes.

25 Q. And is it to Company X?

1 A. Company X.
2 Q. Yes?
3 A. Yes.
4 Q. In the amount of \$150,000?
5 A. Correct.
6 Q. Is the date on that check July 23rd, 2020?
7 A. Yes.
8 Q. And as I understand it, this is an electronic check; is
9 that --
10 A. It appears to be that, yeah.
11 Q. Okay. So does it indicate that the funds were actually
12 taken out on July 29th of 2020?
13 A. That's -- it would, yes.
14 Q. Okay. And let's look at Exhibit 28.
15 Is this the account agreement for Allison Baver
16 Entertainment business checking account?
17 A. Yes, it is.
18 Q. Was there anything unusual about Allison Baver
19 Entertainment's PPP loan or loan application?
20 A. Not that I was aware of.
21 Q. Did Meridian Bank account -- well, I believe this is
22 answered, but just to make clear: Did Meridian Bank approve
23 the loan?
24 A. One more time, I apologize.
25 Q. Did Meridian Bank approve the PPP loan for Allison

1 Baver Entertainment?

2 A. Yes, we did.

3 Q. And it was for \$10 million?

4 A. Yes.

5 Q. And those funds were disbursed to her?

6 A. Yes.

7 Q. At the time Meridian Bank approved the \$10 million PPP
8 loan, did Meridian Bank know that Allison Baver
9 Entertainment did not have 430 employees?

10 A. Not that I'm aware of.

11 Q. Did Meridian Bank know that Allison Baver Entertainment
12 did not have 4.77 and some change in average monthly
13 payroll?

14 A. No. No. Sorry.

15 Q. Did Meridian Bank have any reason at the time to
16 believe that Allison Baver was lying about her number of
17 employees or monthly payroll?

18 A. No.

19 MS. THOMAS: May I have just a minute, Your Honor?

20 THE COURT: You may.

21 MS. THOMAS: No further questions, Your Honor.

22 THE COURT: All right.

23 MR. HUNT: I'm going to need a minute, Your Honor.

24 THE COURT: Okay.

25 MR. HUNT: To get set up.

1 CROSS-EXAMINATION

2 BY MR. HUNT:

3 Q. Good afternoon, Mr. Perate.

4 A. Good afternoon.

5 Q. A minute ago, you were talking about a calculator that
6 you would provide to these PPP investors and that you gave
7 to Ms. Bayer, correct?

8 A. Correct.

9 Q. And the one that you gave her was for 2020; was it not?

10 A. Okay.

11 Q. And the one you just talked about was for 2019. Let me
12 show you what's been -- 439-J, and I'll put that up just to
13 you.

14 What is this?

15 A. What's the date there? I apologize. I don't see a
16 date.

17 Q. It's asking for -- what months is it asking for?

18 A. 2020, it appears.

19 Q. Would that make sense, that that would be the months
20 that you would ask for?

21 A. I don't -- yeah. It was called the -- there was some
22 name for it, something "period." Yeah, it was the payroll
23 period or something like that.

24 Q. Okay. So it wouldn't have been '19?

25 A. I don't believe so.

1 Q. It would have been this document?

2 A. Okay, yeah.

3 Q. It actually goes -- and so I think the government's
4 exhibit actually -- well, they showed you -- actually is
5 incorrect, it would appear, correct?

6 A. I don't know if I can answer that. I don't know if
7 their --

8 MR. HUNT: Your Honor, may I publish this --

9 THE WITNESS: -- I can only tell you what I can
10 see.

11 MR. HUNT: -- and submit it to the jury?

12 THE COURT: You need to just talk one at a time.
13 He was answering. I didn't hear his answer.

14 THE WITNESS: I was just saying that I only can go
15 by what I'm seeing here, which says 2020. I don't know if
16 it's correct or not, yeah.

17 BY MR. HUNT:

18 Q. You recognize the document? I think you said that.

19 A. Say it again. I apologize.

20 Q. Do you recognize the document?

21 A. I do recognize the document, correct.

22 THE COURT: Has this been admitted?

23 MR. HUNT: No.

24 THE COURT: I think it has been.

25 MS. THOMAS: 21(c) was admitted, and it has two

1 pages, so it has the 2019 and the 2020.

2 THE COURT: Okay. Well, this is on the screen, so
3 I'll admit 439-J as well.

4 (Defendant's Exhibit 439-J was received into the
5 record.)

6 BY MR. HUNT:

7 Q. Look at this page for a minute. When did Ms. Bayer
8 apply for the loan with you folks? Do you recall the date?

9 A. I don't recall the date.

10 Q. Do you have that date in front of you? If I were to
11 tell you it was on April 25th -- excuse me, April 25th,
12 2020, does that sound right?

13 A. Sounds right.

14 Q. Okay. And if you look at 439-J, there are two numbers
15 that exceed past the 25th, aren't there?

16 A. Would you please rephrase that?

17 Q. In fact, if you look at the columns for income, there
18 is one that's for April 30th?

19 A. April 30th, correct.

20 Q. Yep. And then also it jumps all the way to May 31st.
21 Those would be future; would they not?

22 A. I don't know who put the numbers in there. I don't
23 believe we provided those numbers.

24 Q. So were you also -- I'm going to now ask you to look at
25 21(d), if we can put that up. It's already been previously

1 entered.

2 And have you ever seen Ms. Baver's payroll budget?

3 A. I don't believe I have.

4 Q. Okay. And so where it says "TOTAL EMPLOYEES" here,
5 where she's articulating 430, if you could mark that on the
6 top there.

7 You've never seen that before?

8 A. I've never seen this document before.

9 Q. Okay. And then when you come down here, did she ever
10 justify to you 430 employees in any fashion, other than just
11 telling you?

12 A. Are you asking me personally or the bank?

13 Q. The bank.

14 A. I believe she did on the application.

15 Q. Okay.

16 A. Yeah.

17 Q. Above and beyond the application?

18 A. I guess it's right here.

19 Q. Okay. And if you'll look down further, they have some
20 totals of budgets for the different projects. And you'll
21 see *America's Angels*, *Dead Princess*, and *Monsters*.

22 And it looks like, if I can do my math, we are
23 upwards of 13 million in the payroll; do you see that?

24 A. I don't see the 13 million, but I see the highlighted
25 areas.

1 Q. I'm adding. If you come down on payroll on the first
2 column where it says "Total," just come down right below
3 where you've highlighted the next line.

4 MS. THOMAS: Your Honor, I'm going to object
5 because he says he's never seen this document.

6 MR. HUNT: Actually, he said that if it had gone
7 to his bank, he's pretty sure it had gone to his bank.

8 THE COURT: I think there's evidence that it went
9 to his bank. I guess if he hasn't seen it, then he can
10 indicate he hasn't personally seen it.

11 THE WITNESS: I haven't personally seen this
12 document.

13 BY MR. HUNT:

14 Q. Okay. A minute ago, you stated you also didn't see a
15 good faith letter. You don't believe one was submitted to
16 your bank.

17 A. I apologize. You're --

18 Q. I'm sorry. My voice is --

19 A. Yeah, you're probably getting tired --

20 Q. Yeah, it's getting --

21 A. -- my voice is too.

22 Q. -- it's getting bad today.

23 A. I'm sorry.

24 Q. A minute ago you stated that you had not seen the good
25 faith letter, good faith letter with the package, that you

1 don't believe one was submitted?

2 A. You mean the letter that was submitted by...?

3 Q. Ms. Bayer, yes.

4 A. No, I've never seen that.

5 Q. Okay. Would it surprise you to know that that was
6 submitted with the packet of information to your bank?

7 A. Wouldn't surprise me, but I've never seen it.

8 Q. Is it common for a good faith letter to be submitted to
9 the bank --

10 A. I don't --

11 Q. -- for a PPP loan?

12 A. I mostly didn't -- I just mostly facilitated. I
13 wouldn't tell you -- I don't know if it's common or not.

14 Q. All right. Let's go now to Mr. Kruelle.

15 How do you know Mr. Kruelle? You knew him from
16 back in the day somehow?

17 A. Yeah, banking, you know, in banking. I believe he was
18 a former banker.

19 Q. All right. And he tells you he's got a friend who
20 would like a PPP loan, sends them to you. You respond back,
21 Great. And when he sends email, he sends an attachment. We
22 just heard the story.

23 And you say you never opened it?

24 A. I don't know about ever opened it, I just passed the --
25 I read maybe a line or two where it said somebody was

1 looking for a loan and passed it on.

2 Q. Okay. All right.

3 MR. HUNT: Your Honor, we would move to admit
4 Exhibit 438. I do not think that is in yet.

5 THE COURT: Has it been received?

6 MS. THOMAS: It is in. Yes, Your Honor.

7 THE COURT: It is.

8 MR. HUNT: The letter? The email?

9 THE COURT: So it can be shown to the jury.

10 MS. MUYSKENS: Yes, it's Government's Exhibit 22.

11 MR. HUNT: I'm terrible with numbers, aren't I,
12 with which exhibit we're on?

13 THE COURT: So 438 --

14 MR. HUNT: Don't need to do it. It's in a....

15 THE COURT: Right. But did you want to show it to
16 the jury?

17 MR. HUNT: I do.

18 THE COURT: Okay. Well, then we can just admit
19 438 as well.

20 (Defendant's Exhibit 438 was received into the record.)

21 BY MR. HUNT:

22 Q. All right. Carl is your friend. And you say that you
23 might have looked at some of this but not all of it. But
24 let's go ahead and look at some of these words that Allison
25 spoke to your bank before filling out her application.

1 Let's highlight the second paragraph, if we could.
2 Could you read that for me. Can you highlight -- there you
3 go.

4 A. (As read):

5 "Right now most banks are only accepting
6 existing customers and the ones I have spoken
7 with require the past 12 months, February to
8 -- Jan./Feb. 2020 payroll, which does not
9 apply to my new entertainment company because
10 of the timeline, I had only paid an attorney
11 for the projects in operation. You see, we
12 had a TV show and two films scheduled to
13 start production in spring of 2020 and these
14 projects employed 430 people -- employ 430
15 people with PP loan amounts of 8.3 million.
16 One of the projects is a TV -- is a TV that
17 was received a distribution offer from A + E
18 Network to air the show four -- Q4 this year.
19 The show is called American Angels and it
20 helps women driven business, employs 80
21 people and will have -- employs 80 people and
22 would have a substantial impact on women in
23 closing the socioeconomic gap."

24 Q. To your knowledge, Mr. Perate, did Ms. Bayer ever back
25 off of that statement to the bank at all --

1 A. Not to my knowledge.

2 Q. -- that --

3 A. Not to my knowledge, yeah.

4 Q. And you never saw her say that she was not looking
5 toward these projects which she believed were underway?

6 A. No, I don't -- one more time. You asked me if -- okay.
7 You got it.

8 Q. It's enough. It's enough. Just one moment. No
9 further questions.

10 THE COURT: Any redirect?

11

12 REDIRECT EXAMINATION

13 BY MS. THOMAS:

14 Q. If we can pull Exhibit 22 back up. Let's go to the
15 email portion that was just highlighted.

16 Does this statement say, "...we received a
17 distribution offer from A + E Network"?

18 A. Yes.

19 Q. Does it further say, "...employs 80 people"?

20 A. Yes.

21 Q. If you had read this statement, would it be entirely
22 clear to you whether or not Ms. Bayer had historical past
23 payroll?

24 MR. HUNT: Objection, Your Honor. Calls for
25 speculation. The words are what they are.

1 THE COURT: Well, I mean, he's testified he never
2 saw or he didn't read this document. Sustained.

3 BY MS. THOMAS:

4 Q. If you had read this document, would ABE's PPP loan
5 have been approved?

6 MR. HUNT: Again.

7 THE COURT: Sustained.

8 MS. THOMAS: No further questions.

9 THE COURT: Anything further, Mr. Hunt?

10 MR. HUNT: Nothing further, Your Honor. Thank
11 you.

12 THE COURT: All right. May this witness be
13 excused?

14 MS. THOMAS: Yes, Your Honor.

15 THE COURT: Thank you, sir.

16 THE WITNESS: Sure. Thank you.

17 THE COURT: You may call your next witness.

18 MS. MUYSKENS: Thank you. The United States calls
19 Blake Hamilton.

20 COURTROOM DEPUTY: You do solemnly swear that the
21 testimony you shall give in the case now before the Court to
22 be the truth, the whole truth, and nothing but the truth so
23 help you God?

24 THE WITNESS: Yes, I do.

25 COURTROOM DEPUTY: Please have a seat.

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BLAKE HAMILTON,
was called as a witness, and having been first duly
sworn to tell the truth, the whole truth, and nothing
but the truth, testified as follows:

COURTROOM DEPUTY: Please state your name and
spell it for the record.

THE COURT: Blake Hamilton, B-L-A-K-E,
H-A-M-I-L-T-O-N.

DIRECT EXAMINATION

BY MS. MUYSKENS:

Q. Mr. Hamilton, what is your occupation?

A. I'm an attorney.

Q. And where do you practice?

A. I practice at the firm Dentons Durham Jones & Pinegar.

Q. Is that located here in Salt Lake City?

A. It is. We have an office in Salt Lake.

Q. Yes. As an attorney, did you represent Allison Bayer?

A. I did.

Q. Did you also represent Allison Bayer Entertainment,
LLC?

A. I did.

Q. Did this representation of Allison Bayer and Allison
Bayer Entertainment include a grand jury subpoena that was

1 issued to Allison Baver Entertainment in May of 2022?

2 A. Yes.

3 Q. What were the dates you represented Allison Baver and
4 Allison Baver Entertainment?

5 A. I represented Allison Baver, as I recall, from about
6 middle of January to approximately November 10th, first part
7 of November 2022.

8 And then I represented ABE from approximately
9 middle of February to the same time, first part of November
10 2022.

11 Q. And you've used -- for ABE -- we'll just refer to the
12 business as "ABE" -- was that February of 2022?

13 A. Correct.

14 Q. And for Allison Baver, was that January of 2022?

15 A. It was, yes.

16 Q. Just wanted to get the years correct.

17 Did you inform the United States that you were
18 authorized to accept the grand jury subpoena that was issued
19 to ABE for certain financial records and information?

20 A. Yes, I did.

21 Q. And did you have the authority from Allison Baver to
22 accept the grand jury subpoena on behalf of ABE?

23 A. Yes, I did.

24 Q. At this time, I'm going to show you Government's
25 Exhibit No. 70. This is a multipage document.

1 Do you recognize the first page, which is an email
2 that has an attachment?

3 A. I do.

4 Q. And page 2?

5 A. I do.

6 Q. Do you recognize these documents?

7 A. Yes.

8 Q. Is this a copy of the email transmitting the grand jury
9 subpoena to you -- transmitted to you, but it was a grand
10 jury subpoena issued to ABE?

11 A. It does.

12 MS. MUYSKENS: At this time, the government offers
13 into evidence Government's Exhibit 70.

14 THE COURT: Any objection?

15 MR. HUNT: No objection.

16 THE COURT: It's received.

17 (Government's Exhibit 70 was received into the record.)

18 MS. MUYSKENS: And if we could publish for the
19 grand jury.

20 THE COURT: Not for the grand jury.

21 MS. MUYSKENS: Sorry. I was looking at the word
22 "grand jury." Thank you. If we could publish for the jury.
23 Thank you, Your Honor.

24 BY MS. MUYSKENS:

25 Q. On the first page -- thank you -- this was sent on

1 May 6th of 2022; is that correct?

2 A. That is correct.

3 Q. All right. Page 2, please.

4 And at the top, it reads that it's sent to Allison
5 Baver Entertainment; is that correct?

6 A. It does.

7 Q. And it has a place, a date, and time of June 15th of
8 2022?

9 A. That's the date and time, yes.

10 Q. And if we could highlight the part that says, "This is
11 a Subpoena DUCES TECUM," and highlight the requested
12 documents.

13 And as an attorney, do you understand what the
14 term "subpoena duces tecum" means?

15 A. I do.

16 Q. What does it mean?

17 A. It's a subpoena for documents, to produce documents,
18 not to testify.

19 Q. And what did this subpoena require the production of?

20 A. It required documents of any bank account besides the
21 bank accounts that were held at Meridian Bank for Allison
22 Baver Entertainment or controlled by Allison Baver
23 Entertainment.

24 Q. Or used by Allison Baver --

25 A. Or used by Allison Baver Entertainment.

1 Q. And it also had a particular time period for the time
2 period of October 2019 through December of 2020, correct?

3 A. Correct.

4 Q. And I believe you stated you did receive this subpoena
5 on or about May 6th of 2022?

6 A. Yes.

7 Q. Did you provide a copy of the grand jury subpoena to
8 Allison Baver?

9 A. My office did, yes.

10 Q. Now, in response to -- thank you, Melissa.

11 In response to the subpoena, did you take the step
12 to file a, what's titled a "Motion to Quash" the Grand Jury
13 Subpoena on behalf of Allison Baver Entertainment in early
14 June of 2022?

15 A. Yes, I did.

16 Q. And "motion to quash," that's not a common term. What
17 does a "motion to quash" mean?

18 A. It's a motion -- well, it's kind of descriptive.
19 "Quash" means to make it obsolete, or make it so that you do
20 not have to comply with the subpoena for certain reasons.

21 Q. Did you act on your own, or did you act with the
22 authorization of Allison Baver when you filed the motion to
23 quash?

24 A. I acted at her direction, yes.

25 Q. I'm going to show you Government's Exhibit 71.

1 Do you recognize this document?

2 A. Yes. This was an order denying that motion to quash.

3 MS. MUYSKENS: At this time, the government offers
4 into evidence Government's Exhibit 71.

5 THE COURT: Any objection?

6 MR. HUNT: No objection.

7 THE COURT: Received.

8 (Government's Exhibit 71 was received into the record.)

9 MS. MUYSKENS: If we could publish. Thank you.

10 BY MS. MUYSKENS:

11 Q. On or about June 14th of 2022, did you receive from the
12 Court a copy of an order that denied your motion to quash
13 the subpoena duces tecum for documents that had been issued
14 to ABE?

15 A. Yes, I did.

16 Q. Did you inform Allison Baver of this order?

17 A. Yes, my office provided her a copy of this order.

18 Q. And the denial of the motion to quash meant the
19 subpoena was still in effect, correct?

20 A. Yes.

21 Q. On or about June 15th of 2022, a day after this order
22 was issued, did you and your partner, Scott Garrett, who
23 works at your firm, contact the United States to request an
24 extension of time for ABE to comply with the subpoena?

25 A. Yes, I believe it was an email sent by my law partner,

1 Scott Garrett, and I was cc'd on that email.

2 Q. Did you receive confirmation from the United States
3 that ABE was granted an extension until June 22nd of 2022 to
4 comply with the grand jury subpoena?

5 A. Yes, I believe we received an email back from yourself,
6 giving us that extension.

7 Q. Did you file a motion to intervene and a motion to
8 quash the grand jury subpoena on behalf of Allison Bayer on
9 June 22nd of 2022?

10 A. Yes.

11 Q. Did you act on your own, or did you act with the
12 authorization of Ms. Bayer when you filed that motion?

13 A. We acted at the authorization of Ms. Bayer.

14 Q. I'm going to show you what's marked as Government's
15 Exhibit 72. Do you recognize this document?

16 A. Yes.

17 Q. We can scroll through it for a few pages.

18 And is this a copy of a court order denying the
19 motion to intervene and the motion to quash the subpoena?

20 A. Yes, it looks like it's a redacted copy of that order.

21 MS. MUYSKENS: At this time, the government offers
22 into evidence Government's Exhibit 72.

23 THE COURT: Any objection?

24 MR. HUNT: No objection.

25 THE COURT: Received.

1 (Government's Exhibit 72 was received into the record.)

2 MS. MUYSKENS: If we could please publish.

3 BY MS. MUYSKENS:

4 Q. So on or about June 28th of 2022, did you receive from
5 the Court a copy of this order? And it wasn't redacted, but
6 you received a copy, correct?

7 A. Yes.

8 Q. Did you read the order?

9 A. I did.

10 Q. And if we could go to page 3.

11 Does it state that Allison Baver's motions are
12 denied, and that ABE is ordered to comply with the grand
13 jury subpoena no later than June 30 of 2022?

14 A. It does state that, yes.

15 Q. Did you provide a copy of this Court's order to
16 Allison Baver?

17 A. Yes, my office did.

18 Q. In your capacity as an attorney, did you produce any
19 records or provide a response to the subpoena on or before
20 June 30th of 2022?

21 A. No.

22 Q. On or about September 28th of 2022, did Allison Baver
23 Entertainment and Allison Baver file another motion with
24 respect to the subpoena, this time a motion to stay
25 compliance with the subpoena?

1 A. Yes.

2 Q. And did you file that motion on their behalf?

3 A. I did.

4 Q. I'm going to show you Government's Exhibit 73. If you
5 could scroll through that.

6 Do you recognize this document?

7 A. I do.

8 Q. Is this a copy of the Judge's order denying the motion
9 to stay that you filed in September?

10 A. It is.

11 MS. MUYSKENS: At this time, the government offers
12 into evidence Government's Exhibit 73.

13 THE COURT: Any objection?

14 MR. HUNT: No objection.

15 THE COURT: It's received.

16 (Government's Exhibit 73 was received into the record.)

17 BY MS. MUYSKENS:

18 Q. And did you receive a copy of this order -- if we could
19 publish -- on or about November 21st of 2022?

20 A. I did. I did, yes.

21 Q. Going to Government's Exhibit 73 on page 4, beginning
22 at the -- after the reference to Footnote 9, we're going to
23 highlight, and if you could please read the part that
24 begins, "Ms. Bayer and ABE."

25 A. You said --

1 Q. Starting at that line.

2 A. It says:

3 "Ms. Baver and ABE have not alleged any
4 particular interests in delay that outweigh
5 the strong interests of a timely and thorough
6 grand jury investigation. Further, the
7 subpoena at issue was issued to ABE over six
8 months ago. This Court has continually
9 rejected Ms. Baver and ABE's various requests
10 for orders of the Court allowing
11 noncompliance with the subpoena. Despite
12 directly ordering ABE to comply with the
13 subpoena, Ms. Bavers [sic] and ABE continue
14 to ignore the subpoena and defy the orders of
15 the Court. Given the strong public interest
16 in an effective grand jury investigation and
17 Ms. Baver and ABE's repeated delays and
18 ongoing failure to comply with the subpoena,
19 the Court cannot find good cause to stay the
20 subpoena."

21 Q. And if you could please read the conclusion that begins
22 with the part "Ordered."

23 A. "It is therefore ORDERED that Defendant's Motion
24 (Docket No. 19) is DENIED. ABE is ordered to comply with
25 the grand jury subpoena immediately."

1 Q. Did you provide a copy of this Court's order to
2 Allison Baver?

3 A. So -- yes. I did not, but my law partner, Scott
4 Garrett, did, and I was cc'd on that email.

5 Q. While representing ABE and Allison Baver, did you
6 provide to the United States any response to the grand jury
7 subpoena in your capacity as an attorney?

8 A. No.

9 Q. To your knowledge, was any response to the grand jury
10 subpoena ever provided to the United States?

11 A. No.

12 Q. No further questions.

13 THE COURT: Mr. Hunt?

14

15 CROSS-EXAMINATION

16 BY MR. HUNT:

17 Q. Mr. Hamilton.

18 A. Mr. Hunt.

19 Q. You withdrew from representing Ms. Baver on the 22nd of
20 December; is that right -- October 22nd?

21 A. We filed our motion on October 22nd. I believe it was
22 granted by Judge Stewart on November 10th.

23 Q. Okay. And had you filed any appeals around that time?

24 A. We had. We'd filed an appeal to the Tenth Circuit.

25 Q. Okay. And what's the status of that?

1 A. The Tenth Circuit decided that the decision was not
2 ripe, meaning it wasn't -- we didn't have standing to move
3 forward in front of the Tenth Circuit at that point in time.

4 MR. HUNT: And was the motion to withdraw admitted
5 into evidence? Was that the last exhibit?

6 THE COURT: I don't believe so.

7 MR. HUNT: Okay. We're going to move -- put up
8 Exhibit 474.

9 BY MR. HUNT:

10 Q. When you say -- when you say "the motion to withdraw"
11 here, I heard that you -- and I didn't understand this
12 before -- but you actually withdrew for both ABE and
13 Allison Baver at the same time?

14 A. That's correct, yes.

15 Q. Okay. Even though they had retained you separately at
16 different times, but you withdrew at the same time?

17 A. That is correct.

18 Q. All right. And during the process of this, quite a
19 lengthy process, quite a lot of activity on the docket,
20 wasn't there?

21 A. I believe there was activity on the docket. I don't
22 have it in front of me, but....

23 Q. I'll pull up 483 for you to look at that.

24 THE COURT: 480- -- wait, 474.

25 MR. HUNT: 483.

1 COURTROOM DEPUTY: What you just had up, 474, was
2 not admitted.

3 MR. HUNT: Oh, it was not. Sorry.

4 I need to move to admit that last document.

5 THE COURT: Is there an objection to that?

6 MS. ANGELOS: Was that the order or the motion?

7 MR. HUNT: It was the order.

8 THE COURT: It's the order granting leave to
9 withdraw as counsel.

10 MS. MUYSKENS: No objection.

11 THE COURT: It's received.

12 (Defendant's Exhibit 474 was received into the record.)

13 BY MR. HUNT:

14 Q. Now, look at that docket. Will you turn the pages.
15 Keep going. Okay.

16 So does this look accurate to you about kind of
17 what was going on with the case, what you saw and
18 participated in yourself?

19 A. Yes.

20 MR. HUNT: Your Honor, we would move to admit the
21 docket, 483.

22 MS. MUYSKENS: Your Honor, we would object. It's
23 actually confusing without context, the docket is.

24 MR. HUNT: I can ask some further questions.

25 THE COURT: All right. Why don't you ask some

1 further questions.

2 BY MR. HUNT:

3 Q. Can you explain what a "docket" is? I should have
4 asked you that question.

5 A. Sure. With every case that's filed in the court,
6 there's a record kept of all the activity in the court, like
7 all the court filings, so all the motions that are filed;
8 all the orders that are entered; all the pleadings that are
9 filed, like oppositions to motions. And that's what a court
10 docket shows, is that activity in the case.

11 Q. So when you're looking at this docket, you're seeing
12 all the activity in the civil docket for the case against
13 Allison Baver and ABE?

14 A. What I'm seeing is the -- specifically just the
15 activity. I represented Allison Baver and ABE in multiple
16 different cases. This was just the case regarding the
17 motion to quash the subpoena.

18 Q. Okay.

19 MR. HUNT: I would move to admit. I think that's
20 a good explanation, Your Honor.

21 THE COURT: Do you have specific objections?

22 MS. MUYSKENS: No, Your Honor.

23 THE COURT: It's received.

24 (Defendant's Exhibit 483 was received into the record.)

25 BY MR. HUNT:

1 Q. Thank you, Mr. Hamilton. Oh, wait. Wait.

2 That's all. Thank you.

3 THE COURT: All right.

4

5 REDIRECT EXAMINATION

6 BY MR. MUYSKENS:

7 Q. Briefly, Mr. Hamilton, you were asked about an appeal
8 to the Tenth Circuit and activity, correct?

9 A. Yes.

10 Q. That appeal was filed in July of 2022, early July of
11 2022, correct?

12 A. I believe -- I believe so. I -- to the best of my
13 recollection, it was filed at the end of July.

14 Q. And the Tenth Circuit issued a decision in late August
15 of 2022, in or around late August of 2022, denying the
16 appeal, correct -- dismissing for lack of jurisdiction, I
17 should say?

18 A. Dismissing for lack of jurisdiction, and that sounds
19 about right, that time frame.

20 Q. So the motion to stay and the November 21st order of
21 2022 all postdate any activity at the Tenth Circuit,
22 correct?

23 A. That's correct.

24 Q. Thank you.

25 MR. HUNT: One more. Thank you.

1 RECROSS-EXAMINATION

2 BY MR. HUNT:

3 Q. Could you, then, have filed motions to continue or kept
4 fighting subpoenas if you had been on the case, if you had
5 been able to stay on the case?

6 MS. MUYSKENS: Objection, Your Honor.

7 MR. HUNT: I think that they just -- we're not --
8 we're discussing what the stay meant.

9 THE COURT: Overruled. Let him explain.

10 THE WITNESS: Sorry, could you repeat your
11 question?

12 BY MR. HUNT:

13 Q. Yeah. I was just going to ask you, if you stayed on
14 the case and if you were able to stay on the case, could you
15 have filed more motions to continue fighting to quash?

16 A. Yeah, so in the Tenth Circuit's decision, as I recall,
17 there was some reference -- I mean, yes. To answer your
18 question, yes.

19 Q. And what were you relying on to make that conclusion?

20 A. In the Tenth Circuit's decision, it talked about the
21 fact that we didn't have standing at that point in time, so
22 there was lack of jurisdiction, that Ms. Baver would have
23 had to show that she'd been held in contempt to be able to
24 move forward with an appeal.

25 Q. And why did you withdraw?

1 A. There were multiple reasons. But the main reason was
2 that communication had broken down between me and Ms. Bayer.

3 Q. Okay.

4 A. And my firm and Ms. Bayer.

5 Q. Okay.

6 A. And made it impossible for us to continue to further
7 represent her.

8 Q. Were you paid?

9 A. We were not paid for a substantial amount of time, as
10 well, yes.

11 Q. Was that a factor?

12 A. That was one of the factors listed, yes.

13 Q. And where did she go to after you?

14 MS. MUYSKENS: Objection, Your Honor.

15 THE COURT: Sustained.

16 MR. HUNT: Thank you, Mr. Hamilton.

17 THE COURT: May this witness be excused?

18 MS. MUYSKENS: Yes, Your Honor.

19 THE COURT: Thank you, Mr. Hamilton.

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: You may step down.

22 You may call your next witness.

23 MS. MUYSKENS: The United States calls Nick Patel.

24 COURTROOM DEPUTY: Please raise your right hand.

25 You do solemnly swear that the testimony you shall

1 give in the case now before the Court to be the truth, the
2 whole truth, and nothing but the truth, so help you God?

3 THE WITNESS: I do.

4 COURTROOM DEPUTY: Please have a seat.

5

6 NIKHIL PATEL

7 was called as a witness, and having been first duly
8 sworn to tell the truth, the whole truth, and nothing
9 but the truth, testified as follows:

10 THE CLERK: Please state your name and spell it
11 for the record.

12 THE WITNESS: Nikhil Patel, N-I-K-H-I-L, last name
13 P-A-T-E-L.

14

15 DIRECT EXAMINATION

16 BY MS. MUYSKENS:

17 Q. Good afternoon, sir. Where do you live?

18 A. I live in Pennsylvania.

19 Q. Where are you employed currently?

20 A. First Bank of the Lake.

21 Q. If it helps, if you want to move the microphone towards
22 you, that way you don't have to lean forward every time.

23 Back in April of 2020, where were you employed?

24 A. Meridian Bank.

25 Q. And what was the location of Meridian Bank where you

1 worked?

2 A. Philadelphia.

3 Q. How long have you worked for Meridian Bank? During
4 what time period did you work for Meridian Bank? It was a
5 bad question.

6 A. Okay. Started late 2019 and -- until last May, so May
7 of 2022.

8 Q. When you started at Meridian Bank in late of 2019, what
9 was your title? What was your role?

10 A. A credit analyst.

11 Q. And as a credit analyst, what did you do?

12 A. I was helping -- when I was coming on, I was focusing
13 on franchise lending. And as a credit analyst, I was
14 helping kind of analyze deals.

15 Q. As a credit analyst, what experience did you have at
16 that point with SBA loans?

17 A. I had no -- I had minimal SBA loan experience at that
18 time.

19 Q. I want to jump to April of 2020.

20 Did your responsibilities change?

21 A. They did, yeah.

22 Q. What happened?

23 A. PPP came around.

24 Q. That happened to you?

25 A. Yeah, that was -- I guess our worlds flipped upside

1 down.

2 Q. So what changed in terms of your responsibilities at
3 the bank?

4 A. I was then focused on processing PPP loans.

5 Q. And prior to processing PPP loans, can you describe the
6 extent of your experience working with any sort of SBA 7a
7 loan program?

8 A. No experience prior to Meridian Bank, yeah.

9 Q. So when you were assigned to process PPP loans, how
10 many people at Meridian Bank were doing the processing?

11 A. I don't know the exact number, but the whole bank was
12 trying to focus on that.

13 Q. What kind of process or steps did you have set up in
14 place at Meridian Bank?

15 A. So we would basically collect documents. We had, like,
16 checklist items that we would collect. We would put a memo
17 together and write up a memo for the loans or applications
18 that are coming in, and we would send those to review.

19 Q. And did you have a sort of checklist of items that you
20 needed to receive from the applicant to move their
21 application forward?

22 A. Yes. We had a general checklist.

23 Q. And what was included in that general checklist?

24 A. That was the application, entity docs, payroll
25 documents.

1 Q. So I want to take your attention to later in May -- or
2 later in April of 2020.

3 Did you participate in the processing of a PPP
4 loan application for \$10,000,000 for Allison Baver
5 Entertainment?

6 A. Yes.

7 Q. And what was your responsibility in that loan
8 application?

9 A. That was to collect the documents, write up a memo, and
10 send it for review.

11 Q. So I'm going to show you what's been entered into
12 evidence as Government's Exhibit 16, and there's three:
13 16(a), (b), and (c).

14 So 16(a), does this look familiar?

15 A. Yeah, this is the application form.

16 Q. Okay. So 16(b), is this also the application form with
17 the numbers a little different?

18 A. Yeah, it looks like the application form as well.

19 Q. Okay. And 16(c), does this also look like the
20 application form?

21 A. Yes.

22 Q. Okay. Do you recall receiving multiple application
23 forms from Allison Baver Entertainment in connection with
24 her request for a \$10 million loan?

25 A. I don't recall. I believe there may have been multiple

1 applications.

2 Q. Okay. So looking at 16(c), page 2, please. This has a
3 date of April 25th of 2020. So if 16(a) and 16(b) had a
4 date of April 24th, 2020, what would have been your process?
5 Which one would you have relied upon?

6 A. Could you repeat that question?

7 Q. This has a date of April 25 of 2020, correct?

8 A. Yeah.

9 Q. If the other two applications we looked at have a date
10 of April the 24th, 2020, which document would you have been
11 relying upon? Which application?

12 A. The latest one.

13 Q. Now, in processing the request for a loan for Allison
14 Baver Entertainment, did you have communications with
15 Allison Baver?

16 A. Yes.

17 Q. Do you recall what those communications were about?

18 A. Not all of them. It was -- yeah, it was largely to, A,
19 here's our ShareFile link. These are the checklist items
20 that we need, and here's how to get them over.

21 Q. And you said, Here's a checklist of items that we need.

22 Did you routinely provide a checklist of items
23 that were needed?

24 A. Yeah. So we had a generic checklist of items for every
25 application, so I would send that out in the email form.

1 Q. I'm going to pull up 21(c), which has been admitted
2 into evidence.

3 Did you also have what was titled, "7a Program
4 Calculations"?

5 A. Yes.

6 Q. So looking at Government's Exhibit 21(c) -- and this is
7 actually a two-page document, but we'll focus on the first
8 page -- does this document look familiar?

9 A. Yes.

10 Q. Okay. And who sent out or who created the format for
11 this spreadsheet?

12 A. The spreadsheet was created by someone at the bank. I
13 can't recall. But that's the one we used for every
14 application.

15 Q. Now, Government's Exhibit 21(c) has a period of months
16 for program calculations for salary that begin in January of
17 2019 and continue through December of 2019; is that correct?

18 A. Can you repeat that?

19 Q. Is 2019 the year of the months that are reflected? Is
20 that the year?

21 A. Yes.

22 Q. And was that the format of the 7a program calculator
23 spreadsheet that you would have sent Ms. Bayer?

24 A. Yes.

25 Q. Okay. Going to page 2, do you recall this document,

1 which has the dates changed to 2020?

2 A. I do, yeah.

3 Q. You recall the document, or you changed the document?

4 A. I just recall -- so the payroll calculator, we were
5 looking for basically the average, what the average monthly
6 payroll was. So we were looking to get a number there.

7 Q. And going back to page 1. Sorry, Melissa.

8 Who input these numbers in the March, April, and
9 May blocks of salary of 2.95 million and then a total of
10 about 5.4 million per month? Who input that?

11 A. That was provided from Allison.

12 Q. Did you put these numbers in?

13 A. No.

14 Q. And if we look at page 2, we see some variation in the
15 number on the second category of the 58,333.

16 Do you know why it was changed from 700,000 to
17 58,333?

18 A. That, I don't recall at this time.

19 Q. Would you have changed the numbers in the spreadsheet,
20 or was it always provided by the applicant?

21 A. Always provided by the applicant.

22 Q. And the numbers here reflect a salary and wages for the
23 month of March 31 of 2020 of 2.951 and 12 dollars; is that
24 correct -- million, 2.9 million?

25 A. Yes.

1 Q. Did you input these numbers in?

2 A. No.

3 THE COURT: Just so that I'm clear: Did you get
4 both sheets? In other words, did the packet that came to
5 you have the sheet with the 2019 numbers and the 2020
6 numbers?

7 THE WITNESS: The -- so first, I can't recall, but
8 so we got one version and then another version as well. So,
9 like, the numbers changed.

10 THE COURT: And do you know which came first?

11 THE WITNESS: I believe the 2019 came first.

12 BY MS. MUYSKENS:

13 Q. And did that come in as part of the application package
14 submitted by Allison Bayer?

15 A. Yes.

16 Q. So from Allison Bayer you received two spreadsheets,
17 one numbered from -- or containing months for the year 2019,
18 and one for the months 2020; is that correct?

19 A. Yes.

20 Q. Did Allison Bayer explain to you what that was all
21 about?

22 A. I don't recall.

23 Q. Did you also receive a series of other documents? I'm
24 going to show you 21(a).

25 Do you recall seeing this table of contents with

1 the application?

2 A. Yeah.

3 Q. What did you do with this information?

4 A. I just put it in the file. This wasn't something -- it
5 was just something that was provided from -- from the
6 applicant.

7 Q. When you say "the applicant," are you referring to
8 Allison Bayer?

9 A. That's Allison.

10 Q. And in this part that we have pulled out here, it says,
11 "PPP Loan Request" for \$8.3 million; do you see that?

12 A. Yeah.

13 Q. Did you notice that being different than her request
14 for \$10 million?

15 A. I don't remember.

16 Q. Did you -- you didn't ask for this document; is that
17 correct, it was just provided?

18 A. Correct.

19 Q. Did you understand what this table of contents was for?

20 A. No, I didn't.

21 Q. So when you were looking at payroll -- we just showed
22 you the 7a calculator. If we could go to 21(e).

23 Was this also a document that was provided by
24 Allison Bayer Entertainment?

25 A. Yes.

1 Q. And it says, "Season Payroll Audit," dated 4/22/2020;
2 is that correct?

3 A. Yeah.

4 Q. And there's a date and time on the left that indicates
5 the dates and the check dates, check for payroll, correct,
6 4/22 of 2020?

7 A. Yes.

8 Q. Okay. And is this a document that was provided by
9 Allison Baver, an audit, claiming season payroll on 4/22 of
10 2020? Was that provided to you in connection with the loan
11 application?

12 A. Yes.

13 Q. And I'm going to show you Government's Exhibit 21(b).
14 Do you recall receiving this letter?

15 A. Yes.

16 Q. And is this something you requested or asked for?

17 A. This was not. It was also just provided with the
18 application.

19 Q. Okay. And in the fourth paragraph, it states that,
20 "Allison Baver Entertainment is applying for the PPP loan
21 for \$8.3M to continue our operations and finance employment
22 lost due to COVID-19."

23 Do you recall reading this, or did you even read
24 this letter?

25 A. I quickly glanced over it at the time.

1 Q. Did you ask Allison Bayer about the 8.3 million versus
2 the \$10 million request, or what were you relying upon for
3 your numbers?

4 A. I was relying on what was provided in the application.

5 Q. So you say, "what was provided." Well, there was a lot
6 provided; is that right?

7 A. Yeah. Yeah.

8 Q. Was there a script provided?

9 A. What was that?

10 Q. A movie script, do you recall receiving one of those?

11 A. No.

12 Q. Okay. How about what's called a "pitch deck" or some
13 slides, do you recall receiving any of those?

14 A. No.

15 Q. So you were relying upon the application.

16 And we looked at the 7a calculator; is that what
17 you were relying upon?

18 A. Yes.

19 Q. And what about that season audit that said payroll
20 season audit for April 22 of 2020. Were you relying on
21 that?

22 A. Yeah, that was viewed as supporting payroll docs.

23 Q. When you were processing the loan application, at the
24 time you were processing it, did you understand or know that
25 Allison Bayer Entertainment had zero employees at that time?

1 A. Could you repeat the question?

2 Q. When you were processing the Allison Baver PPP loan
3 application --

4 A. Yeah.

5 Q. -- the application says, How many employees? Do you
6 remember? Do you need me to pull up it up? 16(c), please.

7 A. 430, I believe.

8 Q. Did you know that at the time that was submitted to
9 you, Allison Baver Entertainment had zero employees?

10 A. No.

11 Q. Did you know at the time you were reviewing the
12 documents that Allison Baver Entertainment had no monthly
13 payroll, let alone 4.7 million?

14 A. No.

15 Q. When you talked with Ms. Baver through the application
16 process, was that told to you by her?

17 A. No, not that I recall.

18 Q. If you had learned that, what steps would you have
19 taken?

20 A. I would have taken a step back at that time.

21 Q. Now, I want to pull up Government's Exhibit No. 22,
22 please. And this has been admitted into evidence.

23 It's a string of emails, and it looks like you
24 were copied on this, maybe on the tail end by Rocco Perate.

25 And do you know who Rocco is?

1 A. That used to be my manager.

2 Q. And were you -- did you read the entirety of this
3 email, or what did you understand when you received this
4 email?

5 A. Yeah, I definitely probably did not read the whole
6 email chain. But I believe somewhere on the email it was
7 like a, We spoke with SBA, and they told us we're good to
8 go.

9 Q. Okay. Upon receiving this email, did you begin to
10 collect and gather the documents from Allison Baver
11 Entertainment?

12 A. Yes. So after the intro was made, I sent out the
13 checklist email and started collecting documents.

14 Q. Okay. And what -- going to Government's Exhibit 16(c).
15 What numbers and information did you rely upon in
16 processing and moving this application forward?

17 MR. HUNT: Your Honor, object to the relevance at
18 this point. What's the value of what he relied on when
19 we're talking about a false statement case about what the
20 defendant's intent was? Are we talking a fraud case here?
21 At this point, I don't know.

22 MS. MUYSKENS: Your Honor, the defense has made
23 arguments that the bank was at fault. Those were the words
24 used by --

25 MR. HUNT: I have not --

1 THE COURT: I'll allow it.

2 MS. MUYSKENS: Thank you.

3 BY MS. MUYSKENS:

4 Q. What numbers did you rely upon?

5 A. The average monthly payroll, as well as number of
6 employees.

7 Q. So upon receiving and reviewing the application and
8 supporting documents to include the payroll audit, I want to
9 pull up Government's Exhibit 19.

10 What is this document?

11 A. This is the memo that we would put together and send to
12 review.

13 Q. Okay. And it's a two-page -- you don't have to pull it
14 up. Is it a two-page document?

15 A. I believe so, yeah.

16 Q. Can you show the full document. Thanks.

17 And this states that the date prepared was on
18 April 25th of 2020; is that correct?

19 A. Yes.

20 Q. And you were the preparer?

21 A. Yes.

22 Q. And that was the same date as the date of the
23 application, 16(c), the last application, correct?

24 A. Yeah.

25 Q. Okay. And so was this an internal document or an

1 external document? Would you send this to anyone, or was
2 that internal only?

3 A. This was internal.

4 Q. So once you received the materials, what was your
5 responsibility in the process? Who did you move things on
6 to?

7 A. I moved it on to Numan.

8 Q. Is that Numan Rizvi?

9 A. Yeah.

10 Q. And is that when your responsibility ended?

11 A. Yeah.

12 Q. Did you have any further responsibility or
13 communications with Allison Baver with respect to the
14 \$10 million PPP loan?

15 A. No, not after it was processed.

16 Q. And how did you receive -- you mentioned links. How
17 did you receive all of the documents that were sent by
18 Allison Baver? How did that get transmitted to you?

19 A. It was a ShareFile, so it was a secure upload link
20 and/or possibly piecemeal of other items. But the majority
21 was probably through ShareFile.

22 Q. And you had also email communications and also a
23 telephone call with Allison Baver during that process to
24 gather the documents?

25 A. Yes.

1 Q. And the person you were speaking to identified
2 themselves as Allison Baver; is that right?

3 A. Yes.

4 MS. MUYSKENS: No further questions.

5 THE COURT: Mr. Hunt.

6 MR. HUNT: I'm sorry, my turn?

7 THE COURT: Your turn.

8

9 CROSS-EXAMINATION

10 BY MR. HUNT:

11 Q. Okay. Hi. Go ahead and take your drink.

12 Mr. Patel, when you first heard of the PPP loan
13 program, who first told you about that program?

14 A. About the PPP loan program?

15 Q. Yeah.

16 A. I can't recall if it was -- probably Rocco or someone
17 from the bank.

18 Q. It would have been one of your superiors?

19 Was Rocco your immediate superior?

20 A. He was my manager.

21 Q. Okay.

22 A. Boss, yeah.

23 Q. Okay. And you said that it was pretty crazy.

24 You were new to the industry at that time?

25 A. I was, yeah.

1 Q. And not a lot of experience?

2 A. I was probably five to six months in.

3 Q. Okay.

4 A. Probably five months, I think.

5 Q. And you didn't receive any training on the PPP program

6 from Mr. Perate, did you?

7 A. There was no formal training. The program came out

8 super quickly.

9 Q. What did you rely on, then, to try and -- when you were

10 talking to these people about how to do it, how to get

11 involved?

12 A. Do you -- repeat that question.

13 Q. If someone came to you and said, Hey, I want to

14 participate in this. I want a PPP loan, what -- would you

15 know how to explain that to them, what it was? Or how would

16 you handle that if you were never trained?

17 A. I would send the checklist that we had.

18 Q. That we just looked at? Or was there another one?

19 Can I pull up 457?

20 THE COURT: Has that been admitted?

21 MR. HUNT: Has it?

22 THE COURT: I don't know.

23 Has that been admitted?

24 MS. MUYSKENS: It has not, but no objection.

25 THE COURT: Okay. It's received.

1 (Exhibit 457 was received into evidence.)

2 BY MR. HUNT:

3 Q. What is this?

4 A. This is the checklist.

5 Q. Okay. This is what you would send?

6 A. Yeah.

7 Q. So if any questions were asked to you, you really
8 didn't know the answers to their questions about the PPP
9 loan, correct?

10 A. Ask that question again.

11 Q. You didn't have any training on it?

12 A. No, there was no formal training.

13 Q. Okay. And Rocco hadn't trained you on it? No internal
14 training?

15 A. There was -- I mean, there were FAQs. You were trying
16 to keep up as best as possible.

17 Q. Okay. There were a lot of FAQs, and that's what you
18 relied on. I think we've heard earlier that the FAQ was,
19 like, the main source of information for you all; is that
20 correct?

21 A. From what I remember, yeah. They were -- they were
22 being rolled out quite often.

23 Q. Look down this list here on 457. This is what you
24 would have liked to have received from any applicant to the
25 PPP program; not really explaining to them much what the

1 program is, rather it's what you would like to receive from
2 them, correct? Correct? My voice is terrible. I apologize
3 again. I'll get some more water up here.

4 But do you -- this seems to me to be a document
5 asking for information, not giving information about the PPP
6 program; is that a fair statement?

7 A. Yeah. I mean, we were processing --

8 Q. Okay.

9 A. -- applications, yeah.

10 Q. Okay. And one of the things at the bottom I see -- if
11 we could highlight right where 457 is -- it says,
12 "Supporting Payroll Documentation," and it says, "whatever
13 is applicable."

14 What do you think that means?

15 A. So that's like whatever -- what would apply to the
16 business.

17 Q. So if this loan is not forgiven, then is your bank --
18 your bank is still not on the hook; is that correct?

19 A. That, I don't know.

20 Q. Okay.

21 A. Yeah.

22 Q. But you're trying to give out a \$10 million loan here,
23 correct?

24 A. Well, I'm not approving, I'm just processing.

25 Q. Well, you're certainly trying to get information enough

1 to get someone to at least apply for a \$10 million loan,
2 aren't you?

3 A. They, I mean the applicants, would come to us.

4 Q. You were the contact -- for example, let's just jump to
5 Ms. Bayer.

6 You were the contact person for Ms. Bayer; were
7 you not?

8 A. Rocco had -- yeah, had copied me on the email to
9 collect documents.

10 Q. And so you took over. In fact, the email -- doesn't
11 the email say, I'm handing you over to one of my best
12 salesmen, Nick Patel, and he'll take care of you?

13 A. I mean, I don't recall what the --

14 Q. Did you ever -- I'm not trying to trip you up here, I
15 promise.

16 Were you in charge of Ms. Bayer's loan or trying
17 to help her? Were you the person?

18 A. I was -- my job was to collect the documents and put
19 together the memo.

20 Q. Okay. When I look at "whatever is applicable," it
21 seems to me that I might want to know either a little bit
22 about what the person is going to use the money for, or a
23 little bit about her business; is that a fair statement to
24 you?

25 A. We're relying on the application --

1 Q. Okay.

2 A. -- itself.

3 Q. But your document, it has, "whatever is applicable,"
4 and you put a long list of documents down there; yet, you're
5 aware that there are two documents that suggest that
6 Ms. Bayer doesn't have any employees, correct? I mean
7 sitting here today, as you're sitting here today, you're
8 aware of that, right?

9 A. Well, what was the question?

10 Q. You're aware, as you're sitting here today, that there
11 are two documents at least that explain that Ms. Bayer
12 didn't have any employees at the time, correct?

13 A. Is that, like, looking back or at the time --

14 Q. At the time when she was applying for the loan with
15 Meridian Bank.

16 A. Yeah.

17 Q. Okay. And you're aware, also, that both of those
18 documents were provided to Meridian Bank at the time the
19 loan was being processed -- or before the loan was
20 processed?

21 A. Correct, along with the application, yeah.

22 Q. And so she, when she filled out that document that
23 we've been talking about over and over again, she'd informed
24 you that, Help, I need a loan. I don't have any employees
25 right now. I have a business that's got things up and

1 going, but I have no concept of how to save jobs. And your
2 response is to send out the checklist and just say, Go for
3 it. Please give me the checklist documents back, correct?

4 MS. MUYSKENS: Objection. Compound question.
5 There are multiple layers in there.

6 THE COURT: Well, do you understand the question,
7 Mr. Patel?

8 THE WITNESS: No.

9 THE COURT: Okay. Well, maybe you can break it
10 down, Mr. Hunt, into discrete parts.

11 MR. HUNT: I will. All right.

12 BY MR. HUNT:

13 Q. So at the time Ms. Baver -- we just established that at
14 the time Ms. Baver came to Meridian Bank, she came to
15 Meridian Bank, so to speak, with a couple documents
16 explaining that she didn't have any employees at the time.
17 We've already established that.

18 A. (Inaudible).

19 MS. MUYSKENS: Objection. Mischaracterizes the
20 evidence.

21 MR. HUNT: No, he answered yes.

22 THE COURT: Well, why don't you phrase that as a
23 question.

24 MR. HUNT: Okay, but he did answer yes to that
25 question.

1 BY MR. HUNT:

2 Q. Let's start with question No. 1, Mr. Patel.

3 The purpose of what I'm doing is to establish what
4 was going on with Ms. Baver at the time she was working with
5 you, okay? That's what we're doing. I'm trying to help you
6 out, I'm not trying to trip you up, I promise, okay? Do you
7 need a break?

8 A. Was that a question, or ...?

9 Q. No. You have this look on your face. You've got
10 morbid fear of looking at me, and I'm trying not to be
11 scary. I don't want to be.

12 Are you comfortable? Are you okay right now?

13 A. Yeah.

14 Q. All right. So when Ms. Baver came to you, there were
15 two documents that we've talked about that explained that
16 she didn't have any employees, and she was looking to fund
17 the business, moving forward, hopefully to save some gigs,
18 some movies that she had going; were you aware of that?

19 A. That ...?

20 Q. At the time.

21 A. At the time?

22 Q. Yeah.

23 A. I was not, because --

24 Q. Okay.

25 A. -- she was providing the application.

1 Q. Okay. So it looks like that you -- that she sent you
2 that information and it went to Meridian Bank. I think that
3 it's clear that both of those documents went to Meridian
4 Bank. One was in an email from Mr. Kruelle, and another one
5 was in a good faith letter, okay? Do you agree with that?
6 Do you understand the two documents I'm talking about?

7 A. The good faith letter --

8 Q. Yeah. And also the email from Mr. -- it was from
9 Allison Baver, but from Mr. Kruelle.

10 A. The long email chain?

11 Q. Yeah.

12 A. Do I recall the full email?

13 Q. No, not do you recall it, do you just recall receiving
14 it?

15 A. Receiving it, yeah. I believe that's how the intro was
16 made.

17 Q. Okay.

18 A. But I didn't read through the full email at the time.
19 I mean, there was a lot going on.

20 Q. It was too long to read? It's a paragraph. It's this
21 long. You guys were that busy?

22 A. It was pretty -- yeah, it was pretty busy.

23 Q. Okay. 460 billion busy, I think is what it was.

24 So then these documents are in the possession of
25 Meridian Bank, okay? Can we go that far and safely say that

1 you understand at that time the documents are in the
2 possession of Meridian Bank?

3 A. Yeah, they're in a folder.

4 Q. Whether you've read them or not, I'm not sure.

5 A. Yeah.

6 Q. Okay. But your response to whatever inquiry Ms. Baver
7 makes is to send out what's in front of us now as
8 Exhibit 457, correct? This is what you'd do?

9 A. That's -- yeah, I would send this generic checklist
10 out.

11 Q. All right. Thank you. And then again, now I'm going
12 to jump ahead, jump into a little extra area of seasonal
13 businesses.

14 Are you aware of that term?

15 A. Just -- seasonal wasn't operational for the full year.

16 Q. So did you understand how the seasonal business
17 applications worked?

18 A. I had a general understanding.

19 Q. Okay.

20 A. I mean, at that time, too, it was -- a lot was
21 changing.

22 Q. Now, Ms. Baver described her business to you as a
23 business where she had some movies and a TV show; do you
24 recall that?

25 A. There were -- yeah, I viewed that as her saying there

1 were projects going on.

2 Q. So there were projects that were going on.

3 Did this fit squarely into your concept of even
4 what a seasonal business might be?

5 A. I mean, I don't know a lot of seasonal businesses, or
6 my view of seasonal businesses is they're not operational
7 for the full year.

8 Q. Okay. Projects, not -- may be or not be operational
9 for a full year, correct?

10 A. Yeah.

11 Q. Okay. Moving along.

12 When you received information back, do you send
13 out -- or describe the timing for me of when you send out
14 the application or the little calculator.

15 A. That was probably with the checklist email.

16 Q. Okay. And it would be with this email here?

17 A. Yeah. If I had to guess, yeah, it would.

18 Q. Now, on that application, it identifies that there's
19 information that is put on there that is generated and then
20 used by you to create the document that is sent to SBA,
21 correct?

22 A. Could you repeat that question?

23 Q. The calculator that you used is the information that
24 you used to create the documents that you sent up to the SBA
25 for the PPP program?

1 A. So we use the application and what's provided --
2 Q. Uh-huh.
3 A. -- to put together the memo.
4 Q. Okay.
5 A. And the memo gets inputted into the SBA system.
6 Q. And do you ever stop -- and I guess that's, as I
7 understand, that you really never stop and look more at the
8 company at all or what the individual tells you at all
9 that's not on that list that you've given them, correct?
10 A. No. I mean, we're just relying on what's provided.
11 Q. Okay. That's fine. I mean, you're not asked to, are
12 you? The PPP program is not requiring you to do any more
13 than what you did right there, correct? I mean, you --
14 A. Yeah.
15 Q. -- feel like you were following the program correctly?
16 A. Yeah.
17 Q. And we've heard from a few banks, and you know that
18 there were these FAQs, and you felt you were following the
19 FAQs and the rules for the applications that were sent to
20 you, correct?
21 A. To the best of my ability.
22 Q. Right. And so anything else that might have come to
23 you wouldn't have been considered.
24 A. Well, is that a question?
25 Q. Yes, I'm sorry. I just kind of assumed that those

1 questions are dropped, so ...

2 Does that sound right, anything else beyond the
3 realm of the application itself or your questionnaire,
4 that's not something that you had time to consider, that you
5 could consider in the chaos of these first couple weeks of
6 PPP?

7 A. Yeah, I mean, there was a lot going on. We were trying
8 to process as quickly as possible.

9 Q. And let's look up 458, if we could.

10 MR. HUNT: I don't think this is entered either,
11 Your Honor.

12 THE COURT: Well, if we're going to launch into a
13 new subject matter, it's about one minute to 5:00.

14 MR. HUNT: Let's see what we've got here.

15 THE COURT: So, I mean, we can break for the
16 evening, and then hopefully you can hone the rest of your
17 examination down tonight. We'll finish him up in the
18 morning.

19 MR. HUNT: Okay.

20 THE COURT: Okay. I told the members of the jury
21 we'd let them go at 5:00, so I want to keep my commitment.

22 All right, Members of the Jury, we will break for
23 the evening. And I will give you the same admonishment that
24 I gave you last night. Please don't do any investigating on
25 your own. Don't go home and start doing Internet searches

1 on the lawyers, on the parties, on any of the witnesses, on
2 PPP regulations.

3 Please do not discuss the case with anyone. It's
4 important that you keep an open mind until you've heard all
5 of the evidence. And also, it's important that you then
6 hear my legal instructions before you start to try and
7 figure out where you're going to land on this case.

8 So have a good evening, but don't worry about the
9 case until you show up tomorrow morning at 8:30.

10 THE CLERK: All rise for the jury.

11 (The jury left the courtroom.)

12 THE COURT: Mr. Patel, you can step down.

13 Counsel, how are we doing on time?

14 MS. MUYSKENS: We are ahead of schedule, Your
15 Honor. I anticipate we may finish tomorrow by lunchtime, if
16 not before.

17 THE COURT: Okay. That's great. Can you, just
18 for my benefit, tell me who's left that you're planning on
19 calling.

20 MS. MUYSKENS: For our chase-in-chief, I
21 anticipate we will call Ethan Hanson, Lisa Whalen --

22 THE COURT: Just a minute. I'm trying to -- okay.
23 Ethan Hanson.

24 MR. HUNT: Is that the order?

25 MS. MUYSKENS: I don't know.

1 THE COURT: Aaila --

2 MS. MUYSKENS: Lisa Whalen. Right below
3 Mr. Hansen.

4 THE COURT: Oh, okay. There we go.

5 MS. MUYSKENS: And Jeff Kirkwood with the IRS.

6 THE COURT: Okay. So you just have three
7 witnesses left?

8 MS. MUYSKENS: Yep, we anticipate that.

9 THE COURT: And then the other folks are, what,
10 may-calls or rebuttal witnesses?

11 MS. MUYSKENS: Correct.

12 THE COURT: Okay. All right, then. Well, that's
13 good news.

14 Did we ever get the jury instruction objection on
15 file?

16 MR. HUNT: Yes.

17 THE COURT: Okay. I will look at that this
18 evening, then.

19 When was that filed?

20 MR. HUNT: I thought yesterday.

21 THE COURT: Oh, we got it filed last night. Okay.
22 All right. I will take a look at that. It sounds like we
23 may need to finalize the jury instructions tomorrow evening,
24 or at least that would be a good idea. All right.

25 Is there anything else we need to address before

1 we adjourn for the evening?

2 MR. HUNT: Nothing further, thank you.

3 MS. MUYSKENS: Nothing, Your Honor.

4 THE COURT: Okay. Thank you.

5 (The proceedings adjourned at 5:02 p.m.)

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COURT REPORTER'S CERTIFICATE

State of Utah)
 ss.
County of Salt Lake)


I, Michelle Mallonee, a Registered Professional Reporter in and for the State of Utah, do hereby certify:

That the proceedings of said matter was reported by me in stenotype and thereafter transcribed into typewritten form;

That the same constitutes a true and correct transcription of said proceedings so taken and transcribed;

I further certify that I am not of kin or otherwise associated with any of the parties of said cause of action, and that I am not interested in the event thereof.

WITNESS MY HAND at Salt Lake City, Utah, this 10th day of October 2023.



Michelle Mallonee, RPR, CCR
Utah CCR #267114-7801
Expires May 31, 2024